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The Influence of the Family in Shaping the Career of Roger Brooke Taney

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THE INFLUENCE OF THE FAMILY IN SHAPING
THE CAREER OF ROGER BROOKE TANEY

By

Bridget R. Taheny

A Thesis Submitted in Partial Fulfillment of
the Requirements for the Degree of Master
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PREFACE

The purpose of this thesis is to delve into the family life of Roger Brooke Taney and to consider the influence his parents, his wife and children had upon his lifework. Chief Justice Taney remarked that he remembered and felt the effects of his mother's teaching throughout his life. Then, again, even the difference in religion between Taney, a Roman Catholic, and Anne Key Taney, an Episcopalian, did not seem to disturb their married life. Taney made a pre-nuptial agreement with his wife, whereby, all sons would be reared in the Catholic faith, of the father and all daughters in the religion of the mother. Records, that such an agreement existed between Taney and his wife, may be found in the statements made by his grandniece, Mrs. Charlton Morgan, of Lexington, Kentucky in The Records of the American Catholic Historical Society of Philadelphia, and also in the records of his great-grandson, the Rev. Roger Brooke Taney Anderson, O.H.C., of an Episcopalian Order.

In writing this thesis, I am deeply indebted to Mr. John A. Zvetina, a member of the faculty of Loyola University, for his kind, generous, advice.

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CHAPTER I

BEGINNINGS OF THE TANEY FAMILY IN MARYLAND

The first Michael Taney, an indentured servant, was one of the early settlers of Calvert County, Maryland. At this time indentured servants were entitled to land grants after serving out their period of four years.¹ Several authors state that the first Taney came to Maryland about 1650. However, Roger B. Taney says, "there is no family record showing the precise time of their coming to Maryland, or, the country from which they migrated."² Roger B. Taney's ancestors, as far back as he was able to determine, were Roman Catholics.

Maryland, the land chosen by Michael Taney and other immigrants, was settled by Sir George Calvert, Lord Baltimore. Sir George Calvert, was a man of importance in the government of England during the reigns of James I and Charles I. He was greatly interested in colonization and trading enterprises; a member of the London and Plymouth Companies, as well as the East India Company; and a member of Parliament; and one of the Secretaries of

¹"In early Maryland the indentured servants were entitled to land grants - at first from the individuals who transported them. There developed a traffic whereby shipmasters imported servants and secured head-rights, which were sold to planters along with the servants. Until 1646 the servant could claim fifty acres from his employer or master; between 1646 and 1683, the proprietor gave the land. Lord Baltimore also recruited settlers by assuring religious freedom to Christians." Nettles, Curtis P., The Roots of American Civilization, Crofts, New York, 1939, 143.

²Tyler, Samuel, Memoirs of Roger Brooke Taney, Murphy, Baltimore, 1872, 21.

State. Nevertheless, his political career ended when he became a Roman Catholic, since the oath taken by office holders required renunciation of the authority of the Pope. He succeeded, however, in spite of his conversion to Catholicism, in retaining the good will and the friendship of Charles I who made him an Irish peer with the title, Lord Baltimore.³

His first attempt at colonization was in Newfoundland in 1620. But after "nine years of hardship and the loss of thirty thousand pounds he abandoned with the thought of trying again in Virginia."⁴ Here his conversion to Catholicism blocked his way because the authorities of Virginia placed him on the same level as themselves. This required him to accept the Oath of Supremacy, to which as a Catholic he could not subscribe. Therefore, he went back to England and was successful in securing from the king a separate province. The land included in the grant was given to Virginia in the charter of 1609, but as yet had never been occupied.⁵

³Sweet, William Warren, The Story of Religion in America, Harper, New York, 1930, 114. This is a rather attractive and good introduction to the history of religion.

⁴Ibid.

⁵"Seeking a better site than Newfoundland for a province, Baltimore visited Virginia in 1629. The unoccupied land of the colony then belonged to the king, but Charles I had promised the Virginians that they should retain their territory as defined in the charter of 1609. The authorities at Jamestown, aware that Baltimore had designs upon their land, asked him to take the oath renouncing the pope's authority over the English Church. As a conscientious Catholic he refused and had to leave, which was precisely what the Virginians had intended. But this stratagem accomplished little, because in 1632 a royal charter to Baltimore carved out of the lands of Virginia a new colony named Maryland in honor of Queen Henrietta Maria. Its bounds were: at the north, the fortieth parallel; at the west, the meridian running through the western fountain of the Potomac; at the south, the southern bank of the Potomac; and at the east, the Atlantic Ocean." Nettles, 123.

However, Lord Baltimore died before final arrangements were made. The charter was given to his son, Cecilius Calvert, who planted the colony, but he was unable to make a visit to Maryland.⁶ Both Calverts had the same thing in mind, the creation of a refuge for English Catholics and the extension of their faith in America.

"Lord Baltimore," says Walsh, "was deeply intent on securing a refuge for English Catholics in America, for at home they were subject to a series of the most stringent and inhuman penal laws. It was no longer treason to say Mass, but any priest discovered was to be fined two hundred marks (a mark was about \$3.25) and imprisoned for one year. All those who attended Mass were liable to the same imprisonment with a fine of one hundred marks. No Catholic could enter the legal or medical profession or the university or teach school under penalty of perpetual imprisonment. Any priest or prelate born a Briton who returned to England from abroad without renouncing his religion within three days was guilty of high treason, the punishment of was death."⁷

The first settlement, which consisted of about two hundred immigrants,

⁶Many proprietors did not reside in America. The organization of the territory was the same, whether he resided in England or in the land which had been granted to him. As a matter of fact the American proprietors frequently spent part of their time in their province and part in England. The proprietary grants were similar to the palatenates of England, and particularly to that of Durham County.

⁷Walsh, James J., American Jesuits, Macmillan, New York, 1934, 40

was made at St. Mary's, near the mouth of the Potomac River. According to Jernegan, these immigrants, "were independent colonists and of a much better caliber than those who originally went to Virginia."⁸ They made peace, purchased land and traded with the Indians.

After a friendly treaty with the Indians, and payment for land, the savages agreed to allow the Englishmen possession of half of the village, until after the harvest, when they would remove altogether, giving the new-comers entire possession. The settlers and the savages then promised each other to live in peace and concord, and thus, with a solemn covenant of faith to be kept, and mutual assistance rendered, was founded upon justice, peace and charity, the little town of St. Mary's.⁹

Bancroft, in referring to the first Maryland settlement, relates,

That the Catholics took possession of the little place, and religious liberty obtained a home - its only home in the wide world - at the humble village, which bore the name of St. Mary's. Such were the beautiful auspices under which the province of Maryland started into being; its prosperity and peace seemed assured; the interests of its people and its Proprietary were united; and for some years its internal peace and prosperity were undisturbed. Its history is the history of benevolence, gratitude and toleration.¹⁰

McGee's account of the character of St. Mary's early settlers is enlightening. "These were chiefly of the better classes of England and Ireland; educated young men in search of employment; heads of families in search of cheaper subsistence; men, proud of their ancient faith, who preferred an

⁸Jernegan, Marcus W., The American Colonies, Longmans, Green, New York, 1913, 58.

⁹Russell, William T., Maryland; The Land of Sanctuary, Furst, Baltimore, 1907, 79.

¹⁰Bancroft, George, History of the United States, Appleton, New York, Vol. I, 247-248.

altar in the desert to a coronet at court; professional or trading men, bound by interest and sympathy to these better classes. They compose a wise and select community worthy of their rich inheritance."¹¹

From the very beginning, the pioneers who settled in St. Mary's treated others with a kindliness which they themselves desired. "They were neither cruel nor unjust. They dealt fairly with the poor red men, teaching them the comforts of civilization and the consolations of religion, and paying them with conscientious strictness for their furs, game, and land."¹²

Lord Baltimore obtained in addition to the large land grants, extensive political rights and privileges in the colony. The proprietor was made almost independent of the crown, both with respect to land and government. Nevertheless, he was limited in that he could not enact laws without representation of the freemen. The settlers were to have the rights and liberties which other English subjects enjoyed. According to Osgood, "He was authorized to legislate through an association of the freemen concerning all matters of public interest and private utility within the province. The laws thus passed should be published under the proprietor's seal, and executed by him on all inhabitants of the province, and all going to or proceeding from it either to England or to foreign countries."¹³

¹¹Treacy, Rev. William, Old Catholic Maryland And Its Early Jesuit Missions, St. Joseph's Rectory, Swedesboro, New Jersey, (no date), 98.

¹²Ibid.

¹³The proprietor could inflict all forms of punishment, even the death penalty, and he was given the authority to pardon all crimes which he could punish. Baltimore was given the power to establish courts and appoint all officers, who were necessary for the execution of laws. He was considered a captain-general with the authority to arm and train the people for defensive war.

Although the second Lord Baltimore was even "more hard-headed and practical than his father and with a high degree of tact carried out the colonization scheme, and for forty years ruled the colony at long range with skill and economic success;"¹⁴ he was unable to stress religion in his colony too strongly. Furthermore, under the religious clause, religious toleration was attempted. As a Roman Catholic, Lord Baltimore, desired to "provide a shelter for his co-religionists, but he could not establish a state church contrary to the laws of England; consequently, he could neither make Catholicism an official religion nor in any way discriminate against Anglicans."¹⁵ It seems that right from the beginning, 1634, the majority of settlers were Protestants. The religious plans were made clear to Leonard Calvert, a brother, who came as the first governor to the colony. "Care was to be taken by the officials 'to preserve unity and peace among all the passengers' while 'no scandall nor offence' was 'to be given to any of the Protestants'."¹⁶ Nevertheless, Lord Baltimore became the pioneer of religious toleration by "illustrating in practice the broad Catholic doctrine that, however, convinced anyone might be of the truth of his own religion, he may let others live in peace without belonging to it."¹⁷

Closely allied with this was the right to execute martial law for the suppression of rebellion. Osgood, Herbert L., "The Proprietary Province As A Form Of Colonial Government", The American Historical Review, Vol. II, July, 1897, 650.

¹⁴Sweet, 115.

¹⁵Nettles, 185.

¹⁶Sweet, 115.

¹⁷At the time when the Maryland colony "was projected by Lord Baltimore, the Catholics were under the displeasure of the State in England; they were incapacitated for all civil offices, and forbidden the exercise of their religion." Russell, 21.

All religious groups, Anglicans, Puritans, and Catholics were allowed to settle in the colony. The two Jesuit priests were among the early immigrants to Maryland, and for some time were the only representatives of any religion in the colony. The Jesuits worked faithfully among the settlers, and in a short time many Protestants and Indians were converted. As might be expected, the success of the Jesuits was reported to the "English Protestant authorities, which brought a rebuke from the proprietors, who now proceeded to limit the authority of the priests, annulled the grants of land made to the missionaries by the Indian Chiefs, and finally had the Jesuits replaced by secular priests; and a few years later (1643) even made overtures to secure Puritan immigration from Massachusetts."¹⁸

However, Baltimore realized the danger of religious strife, and warned the Catholic leaders in charge of the colony against persecuting or offending the Protestant settlers. The oath as stated by Lord Baltimore in 1636 shows that he desired to have religious toleration in the colony.

I will not myself or any other, directly or indirectly, trouble molest, or discountenance any person professing to believe in Jesus Christ, for or in respect to religion: I will make no difference of persons in conferring offices, favors, or rewards, for in respect of religion: but merely as they shall be found faithful and well deserving, and endued with moral virtues and abilities: my aim shall be public unity, and if any person or officer shall molest any person professing to believe in Jesus Christ, on account of his religion, I will protect the person molested and punish

¹⁸Sweet, 116-117.

the offender.¹⁹

The Puritans who had been driven from Virginia and found refuge in Maryland joined the other Protestants and became very aggressive. It was not long, however, until they bitterly opposed the proprietor and the Catholic inhabitants. The religious strife, in Maryland, was aggravated more because of the Civil Wars in England. To avoid criticism, of his colony, Lord Baltimore appointed a Protestant governor William Stone, in 1649, and gave him orders to allow religious toleration. He also urged the Maryland Assembly to pass an Act of Toleration.²⁰ The third provision of the act applied to the various religious groups in Maryland. It promised "punishment by fine or whipping and imprisonment for any person who, in a reproachful manner called any person within the Province a Heretic, Schismatic, Idolater, Independent, Presbyterian, Popish priest, Jesuit, Jesuited Papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Separatist, or any other name or term."²¹

¹⁹Russell, Appendix F, 534.

²⁰"The famous Toleration Acts," says Thomas, "giving legal sanction and liberty of conscience, which shed such brilliant renown upon the legislative annals of Maryland and won for it the name of the 'land of Sanctuary', and which extended to all who believed in Jesus Christ whatever their form of worship, 'shelter, protection and repose', became engrafted by law upon its government. Though religious toleration had been in practice in Maryland from its earliest settlement, it had never been made the subject of legislative enactment, and to the General Assembly of 1649 does this, the 'proudest memorial' of Maryland colonial history belong. . . . Injustice to none and Christian Charity and toleration for all who believed in Jesus Christ, established by Cecilius Calvert and continued by Charles Calvert, those in authority under them rigorously enforced." "In 1649," says R. S. Fisher, "the Assembly passed that noble Act of Religious Toleration, that has placed Maryland so far above her sister colonies, and which threw the mantle of charity over all, and in the benefits of which the Catholic, Quaker and the Puritan participated; for all had experienced the rigours

According to Mr. Sweet, the fifth article is the most important provision of the act:

And whereas the enforcing of the conscience in matter of religion, hath frequently fallen out to be of dangerous consequence in those commonwealths where it has been practiced, and for the more quiet and peaceful government of the Province, and the better to preserve mutual love and unity among the inhabitants, etc. No person or persons whatsoever, within this Province, or the Islands, Ports, Harbours, Creeks, or Havens, thereunto belonging, professing to believe in Jesus Christ, shall from henceforth be in any ways troubled, molested, or discountenanced, for or in respect of his or her Religion, nor in the free exercise thereof, within this Province, or in the Islands thereunto belonging, nor any way compelled to the beliefs or exercise of any other religion, against his or her consent, so as they be not unfaithful to the Lord Proprietor, or molest or conspire against the civil government established, or to be established, in this Province, under him or his heirs.²²

The penalty for the violation of the act was a heavy fine for each offense, and if the person defaulted in his payment, whipping and imprisonment was the result.

As a matter of fact, the passage of this act did not satisfy the Puritans. From 1660 on, friction between the Puritans and the proprietor increased rapidly. The English Revolution of 1688-1689 was followed by a similar one in Maryland. Father Treacy states that, "vile and unscrupulous miscreants took advantage of the friendship that existed between the Catholic

of persecution. The colony truly became the 'Land of the Sanctuary,' and by this act all sects and denominations of Christians were secured in the public profession of their religion according to the dictates of their consciences." Russel, 197-198.

²¹Cobb, Sanford, The Rise of Religious Liberty in America, New York, 1902, 376.

²²Sweet, 118-119.

settlers and the Indians to accuse the former of a black and horrible crime. They accused them of entering into a compact with the Indians for the purpose of slaying all their Protestant neighbors."²³

There is evidence to show that this uprising was the result of a panic, "produced by one of the most dishonorable falsehoods which has ever disgraced any religious or political party - by the story, in a few words, that the Roman Catholics had formed a conspiracy with the Indians, to massacre the Protestants."²⁴

The Puritans could find no fault with Lord Baltimore on matters of religion; he allowed entire freedom of conscience and worship. Their idea of toleration was to tolerate no one but themselves. After all, the refugee Puritan, was put on an equal basis with the Catholic; he was given a home and liberty in Maryland. However, the Puritans, were not satisfied. Cobb, in his Rise of Religious Liberty in America, says, "that the Maryland Puritan played the part of a viper stinging the bosom that had warmed him and made the most disgraceful chapter in the history of Puritanism and religious liberty."²⁵

A type of person just described in the preceding paragraph was John Coode who had been a Catholic, then a Protestant, at one time a clergyman,

²³Treacy, 99.

²⁴Russell, 354.

²⁵"Lord Baltimore made every effort to satisfy the Puritan refugees and make them happy and contented in their homes, but herein he was undertaking the impossible. Puritans could not be happy and contented unless they exercised the exclusive privilege of enjoying these felicities, barring all others from the state of contentment who did not agree with their theological views. This was their idea of religious liberty. Lord Baltimore not only gave them the right to worship as they pleased, he also gave them the

and finally an atheist, and who became the originator of the story of the conspiracy previously described as well as the leader of the discontented Puritans of the colony.²⁶ Steiner states that Coode was a "braggart and a swash-buckler, always eager to fight and swelling with a sense of his own importance. It is my impression that he was put forward by the others as a figure-head, and when he had accomplished what they desired was quietly put aside. He was a demagogue, and doubtless possessed considerable influence over the people. The spirit with which he went into the movement was probably the same as that which induced him later to declare, when arrested for Atheism and blasphemy, that he had pulled down one government he would pull down another."²⁷ The other prominent men who assisted Coode were: Jowles, Blakiston and Cheseldyn. Coode and his followers were able to discard Baltimore's officials, and to seize the colonial government. Michael Taney, High sheriff of Calvert County, and the ancestor of Roger B. Taney, was one of the leading men of the province who opposed Coode. Taney endeavoured to "persuade all people, but Chief Colonel Jowles . . . to lye still . . . until their Majestys pleasure should be knowne. He told them that it was rebellion to rise against the Proprietary without orders from England, and prevailed with some; but Jowles was not to be moved from his purpose." An assembly was

right to vote, and in doing this, he made those of his own faith in the minority." Ives, J. Moss, The Ark And The Dove, Longmans, Green, New York, 1936, 234.

²⁶ Coode's organization was known as as "Association in Arms for the Defence of the Protestant Religion and for Asserting the Right of King William and Queen Mary." Russell, 340.

²⁷ Steiner, Bernard C., "The Protestant Revolt in Maryland", American Historical Association, 1897, 302.

called by this group of conspirators without consulting the Proprietor, which meant that Catholics were excluded. As a consequence, Taney refused to send delegates to the assembly. Then, again, when Jowles ordered the clerk to read some papers, Taney inquired "whether those papers were their Majestys authority. If so, he said he himself would read them; if not, they should not be read." When Jowles insisted on having them read, Taney tells us he said to the clerk: "If the Lord Proprietary have any authority here, I command you, in the name of the Lord Proprietary, to read no papers here." Jowles became angered "saying he would choose none". Jowles "got some of his souldiers in drinke and these made what they called a free choyce."

Taney was not content to let this pass without protest. Therefore, himself and "many more of the better sort of the people signed a declaration that exprest modestly and loyally some reason why we were not willing to choose any representative."²⁸ For this act of independence, Taney and Smith were arrested.²⁹ Not only Catholics, but Protestants were also imprisoned for refusing to support Coode in his undertaking. The minds of the members of the Assembly, according to Cobb were, "completely filled by their frantic hatred of Roman Catholics and they kept dinning the King's ears with their insane bellowings."³⁰

²⁸Ibid., 302-307.

²⁹Taney describes their behavior as follows: "I was fetched from my house on Sunday the 25th of August, 1689, by James Bigger and six other armed men, by order of the persons assembled at the command of Coode and his accomplices, and kept close prisoner at the house of Philip Lyons, under a guard of armed men, and, upon the 3d day of September, carried by a company of soldiers before y^e said assembly." Scharf, Thomas J., History of Maryland, Piet, Baltimore, Vol. I, 320.

³⁰Cobb, 377.

Taney was called before Coode and accused of rebellion against the monarchs. Coode urged Taney to submit to a trial stating that he would secure him a counsel. Taney refused saying; "I was a free borne and loyall subject to theire Majestys of England and therefore, expected the benefitt of all those laws of England, that were made for the preservation of lives and Estates of all such persons and, therefore, should not submitt myself to any such unlawful authority, as I take yours to be."³¹ On being asked, "Who was theire Majestys lawful authority heere?" Taney replied, "I was as being an officer under the Lord Baltimore, until theire Majestys pleasure should be otherwise lawfully made knowne." This was more than Coode expected, and he exclaimed, "What! this is like King Charles and you are King Taney, take him away." From this source it may be said that Roger B. Taney inherited some of his courage and wisdom.

The assembly decided to have all the prisoners brought in at one time. The prisoners were told that, "It was the Order of the House that they must find good and sufficient security to be bound for them to answer before their Majestys Commissioners lawfull authority what should be objected against them and, in the meantime, be of good behavior." The prisoners answered saying: "theire authorities we lookt upon not lawfull to force us to give any bonds & that we had Estates in this country sufficient to oblige our staying to answer what any lawfull authority could object against us." Again the prisoners were put under guard and taken away.

³¹Steiner, 308-315.

From this place of confinement at Charlestown, in Charles County, Smith and Taney wrote to Colonel P. Bertrand. They contended that they "were more convinced than ever of the falsity of the rumors concerning a Popish conspiracy and that they feel sure that, had they submitted 'many more had been prisoners by now.'"

Mrs. Smith went to England with Colonel Darnall to plead their cause before the king. There is no record as to her success or failure, but Steiner is of the opinion that they "were liberated before June, 1690."³² However, Taney's career was near an end. He died May 22, 1692, leaving his second wife, Margaret, and three sons and a daughter. "To his heirs he left numerous tracts of land in Calvert County, running into thousands of acres. He left personal property appraised at more than eight hundred pounds, not including 162,825 pounds of tobacco, the value of which was not estimated. The inventory included five indentured servants and eleven negro slaves. Measured by the prevailing standards, the success of his family was unqualified. He had established a family, a family name, and a family estate. He had buried the record of his indenture in a position of unquestioned aristocracy, leaving to posterity all the prestige which any ancestor in such a locality could have handed down."³³

Michael II, a son, inherited his father's estate on the Patuxent River. He married Dorothy Brooke, a descendant of Roger Brooke.

³²Ibid., 316.

³³Swisher, Carl Brent, Roger B. Taney, Macmillan, New York, 1936, 6.

In each generation of the Taney's, the eldest son was named Michael, and he received the ancestral estate. If there were other children they could inherit some of the parents' property, but the ancestral home always went to a Michael. Michael Taney, the fifth, a Roman Catholic, was the father of Roger Brooke Taney.³⁴

One of the outstanding problems, in the Catholic home, during the Colonial period, was that of the Catholic education of the children. The schools in the English colonies were regulated by the same penal code as prevailed in England. Consequently, many children were sent abroad to receive a Catholic education. Although it was unlawful for Catholics to send their children to the English Catholic Colleges on the continent, it was a known fact that Catholic parents did not hesitate to send their children to these colleges. Their boys and girls were allowed to take the chance of being captured, fined, and imprisoned in order to secure a Catholic education. Father Thomas Hughes, S.J., writes:

In the history of the colonies, and indeed of the new States also, we do not think a parallel can be found to the liberality with which Maryland Catholics provided an expensive education for their children, simply because they wished that education to be Catholic. Nor was there any time when good parents were not sending their children to the Continental Colleges and Convents of Europe. It was chiefly the boys, however, that they trusted to the perils of the long voyage and journey by land and sea, from the banks of the Potomac to St. Omer's College, in French Flanders.³⁵

³⁴"Whether any of the Michaels had a deep desire still further to better his position we do not know. The records show only that each lived as his father had lived, maintaining himself approximately at the social and economic level achieved by his first American ancestors." Ibid., 7.

³⁵"As far back as the Orange Revolution, St. Omer's was a beam in the eye

In order to enter these schools of Europe, an elementary training was necessary. This was rather difficult to obtain in Maryland because there was hardly a period after 1650 that the Catholics felt secure from the penal laws. The schools that were started had to be kept secret. Then, too, the existing social and economic conditions of Maryland made it impracticable for the establishment of schools.³⁶ That is, there were no towns and the large plantations were very scattered in western Maryland. Therefore, the instruction of the children had to be private. It was up to the parents to secure the best training possible, according to their means. In some instances the parents taught the children; others had private tutors, who were owned as servants. Even this meager form of education was practically done away with when the Lord Proprietary lost its power.³⁷ Consequently, in 1691, the colony became a royal province and the Church of England became the established

and a thorn in the side of sensitive and scrupulous rebels like Jack Coode. But it was after the middle of the eighteenth century that the practice became quite a system." Guilday, Peter, Life and Times of John Carroll, Encyclopedia Press, New York, 1922, 6.

³⁶Frequently this is given as a reason for the large plantation owners to send their children abroad for their education. The parents felt that the children would derive as much benefit, if not more, from the social life as from the intellectual side.

³⁷Lord Baltimore, "without the charge of a single offense being brought against him, except that he was a Catholic, without a trial by a jury of his peers, against his earnest protest, and notwithstanding the remonstrances of large numbers of respectable Protestants in several of the counties, was deprived of all civil and political authority conferred upon him in the charter, and remained so deprived until his death in 1715. William and Mary without a scruple took over the province, made it a royal colony, and appointed Lionel Copley governor. And now began the reign of religious toleration and bigotry." The Catholic Encyclopedia, Appleton, New York, Vol. IX, 758.

Church. Browne states that, "Baltimore was no indifferentist in matters of religion. That he was a sincere Catholic is shown by the fact that all the attacks made upon his rights were aimed at his faith, as the most vulnerable point. That he was a Papist and Maryland a Papist colony, a nursery of Jesuits and plotters against Protestantism, was the endless burden of his enemies' charges. He had only to declare himself a Protestant to place himself in an unassailable position; yet that step he never took, even when ruin seemed certain. He was singularly free from bigotry, and he had had a bitter knowledge of the fruits of religious dissension; and he meant from the first, as far as in him lay, to secure his colonists from them."³⁸

All of the people regardless of their religious faith were taxed for the support of the church and the clergy. Shea says, "Meanwhile the Anglican Clergy in Maryland, fattening on their tithes, lived in plenty and disorder amid their slaves, without in the least troubling their minds about preaching to their flocks. So notorious is this disorderly conduct of the Colonial Clergy that the Protestant Bishop of Maryland, a few years since, exclaimed: 'Often as I hear and read authentic evidence of the character of a large proportion of the clergy in the province of Maryland, two generations since, I am struck with wonder that God spared a church so universally corrupt, and did not utterly remove its candlestick out of its place.'³⁹

The Catholics were deprived of all civil rights; prohibited from wor-

³⁸Browne, William H., Maryland, The History Of A Palatinate, Boston, 1884, 69.

³⁹DeCourcy, Henry, and Shea, John G., History of the United States, Kenedy, New York, 1879, 34.

shipping as they wished; and fined for any violation of the laws. In the law of 1704⁴⁰ was "An act to prevent the Growth of Poperty forbade a 'popish bishop or priest' to exercise his functions in any public service, under the penalty of £50 fine, or six months imprisonment. If one, once convicted, should be guilty of a second offence, he was sent to England for punishment."⁴¹

This act also made it illegal for Catholics to carry on their school work; which meant that the education, of the Catholic children, was again left up to the parents. Accordingly, this was a hardship on the parents because now it was possible to fine a Catholic father or guardian, "forty shillings a day if he employed any but a Protestant tutor in his home." Then also, Father Guilday states that if a father,

sought to procure a Catholic education for his son by sending him across the sea to St. Omer's, or some other of the Jesuit Colleges in Europe founded for this very purpose, he became liable to a fine of £ 100. Poor Catholics were thus effectually deprived of all opportunity to give their children a Catholic education, except so far as they were able to instruct them themselves. Wealthy Catholics, fared somewhat better, as it was easier for them to secure a private tutor, and it was less difficult for them to conceal the fact. They could afford, too, to send their sons to Europe to study, and, in spite of the stringency of the laws and the vigilance of authorities, they often found means to do so without being discovered. One great help to this end was afforded by the use of an alias, the student assuming a new name by which he was known

⁴⁰"During the early years of the colony when a clergyman was expected to work for a living as well as to preach the gospel, few Episcopalian ministers entered Maryland. Now that the government provided rather liberally for them, they came in great numbers." Russell, 467.

⁴¹This same act placed a tax of "twenty shillings on every Irish servant imported, to prevent the entrance of Papists." Cobb, 398.

during the time of his journey to Europe and his stay there.⁴²

However, in 1715, Maryland was restored to the proprietorship of Benedict Calvert, the fourth Lord⁴³ Baltimore, and remained under the control of the family until the Revolution. Benedict's son, Charles II, succeeded his father as proprietary. He did not relinquish any civil or religious rights to the Catholics. In 1715 it was lawful to take the children away from their parents. For example, the children of a Protestant father and a Roman Catholic mother could, upon the father's death, be taken from the mother. Unfortunately, if a son, in a Catholic family, became a Protestant, the father no longer had control over him, but was required to support the boy. Then, too, Lord Baltimore encouraged the enactment of laws which disqualified the Catholic from representation in the Assembly.⁴⁴

However, from 1715 down to 1751 Catholics were allowed to practice their religion provided their religious services were held in accordance with the law. That is, priests were able to exercise their religious functions in private homes, but in no other places. Therefore, many landowners built chapels adjoining their manor house. In the poorer homes, a separate room was kept apart for religious worship. Consequently, it was considered "an honor for a family to have the Holy Sacrifice offered within the walls of the

⁴²Guilday, Life and Times of John Carroll, 10.

⁴³Benedict Leonard Calvert renounced his faith in 1713 and entered the Church of England. He lived only a short time to enjoy his title. After changing his religion he immediately brought his "six children home from foreign Popish Seminaries, where they were being educated at his father's charge, placing them in Protestant schools." Russell, 395.

⁴⁴Cobb relates that "the act of 1716 required the oath of abjuration of all persons elected to office; and that of 1718 denied the ballot to Romanists unless they abjured their faith." 398.

home and everything was done to give the room the appearance of a chapel or church, the temporary altar being decorated with wild flowers which the people brought in profusion."⁴⁵ Despite the efforts of Governor Sharpe to aid the Catholics, they had few religious or civil liberties in Maryland at the close of the Colonial period.

Regardless of the existing conditions, Taney's father was sent to St. Omer's, the English Jesuit College, in France. In 1762, when the school was taken from the Jesuits, and replaced by secular teachers, the entire school was secretly moved into Belgium and became known as Bruges. Michael Taney remained in school until he finished his education.

The Maryland Assembly disapproved of St. Omer's because it feared the college would hinder the growth of Protestantism. Father John Gilmary Shea makes the following reflection in regard to the results of the European training upon the young Americans who went to St. Omer's.

The effect of this continental education on the young Catholic gentlemen was clearly seen. As a class they were far superior to their Protestant neighbours, who, educated at home, were narrow and insular in their ideas, ignorant of modern languages and of all that was going on beyond their country limits and its fox hunts and races. The Catholic, on the contrary, was conversant with several languages, with the current literature of Europe, the science of the day, with art and the great galleries where the masterpieces of painting and sculpture could be seen. He returned to England or his colonial home after forming acquaintance with persons of distinction and influence, whose correspondence retained and enlarged the knowledge he had acquired.⁴⁶

⁴⁵Ives, 267.

⁴⁶Shea, 21-22

Michael Taney's father had died two years before his return to Maryland to take charge of the family plantation. Shortly after his arrival in America he married Monica Brooke, daughter of Robert Brooke, of Calvert County Maryland.

At the time of his marriage, about 1770, there was a great deal of unrest in the colonies. The struggle with England over trade restrictions hindered the sale of tobacco, the staple crop of Maryland. This restraint was especially felt in the rural sections of that state. The Taney's and most of the planters suffered greatly. Michael Taney, together with a great number of the other planters, wanted freedom from unfair trade laws. When it seemed that the war was unavoidable, the counties of Maryland organized and equipped men for national and local defense.⁴⁷ It has been stated that a great number of Catholics took part not only in the Revolution but also in other wars.⁴⁸ The Taney's took part in the War for Independence for Michael Taney "served as a first lieutenant in the state militia, defending the coasts of the country against the forays of British pirateers and of local pirates who took advantage of the war to plunder in their own

⁴⁷If a prominent citizen raised a company, of men, by his own effort and partly at his own expense, he was usually chosen captain.

⁴⁸Rev. John Hughes Makes the following statement: "I think I shall be safe in saying that there has not been one important campaign or engagement in which Catholics have not bivouached, fought and fallen by the side of Protestants, in maintaining the right and honor of their common country. On all these occasions, from a glance at the roll of the missing, or a gaze on the upturned faces of the dead it would be easy to discover that, however small the constituency, the Catholic body never failed to furnish a comparatively numerous delegation to the battlefield; or in discharging the duties of civil, social, commercial, or professional life, they have justified their title, as of right, to that perfect equality with their Protestant fellow citizens which the constitution has conferred indiscriminately."

interest."⁴⁹ Then, too, in 1776, his brother, Joseph, was made an ensign in a Calvert County Company. There were other more prominent Catholic laymen and clergy who were ready to aid in the struggle for common rights.⁵⁰ In 1776 the Annapolis Convention issued an order that all able-bodied freemen had to report for service. A fine was placed on all those who refused to enlist.

Great changes in church and state took place in Maryland during the Revolution. Some of the intolerant attitude toward the Catholics disappeared. This change on the part of the Episcopal Clergy was made in order to secure the sympathies of the Catholics. The Reverend Jonathan Boucher, a clergyman of the Anglican Church, tried to win the support of the Catholics through a series of propaganda sermons preached in Maryland. Reverend

inately to all." Hughes, Rev. John, The Catholic Chapter in the History of the United States, Dunegan, New York, 1852, 9-10.

⁴⁹"True the Taney's participated only in the unspectacular local defense, not in the more dramatic scenes of the war. It was a necessary service, however, and it is not necessarily a criticism of their patriotism that they were absent from Yorktown and other points at which stirring events of history took place." Swisher, 10.

⁵⁰According to Rev. John Hughes, "Charles Carroll of Carrollton, signed the Declaration of Independence, with a bold and steady hand, risking his immense property, as well as his life, in the cause of his country. His cousin, The Rev. John Carroll, then a priest and a Jesuit, afterwards the venerated first Archbishop of Baltimore, was associated with Franklin, Chase and Charles Carroll, on a mission to conciliate, pending the war, the good will, or at least the neutrality of the Canadians, who were Catholics. John Barry, of Philadelphia, a most devout Catholic, was appointed to command the Lexington, the first vessel of war owned by the Continental Congress, and so well did he acquit himself, that he received special thanks and commendations from Washington himself. He was raised to the highest rank; the first ever obtained from the government the title which is popularly known as Commodore; his memory is held in respect by his gallant successors, and he is not unfrequently designated as the father of the American Navy." 13.

Boucher depicted the Catholics of Maryland "at first wavering with the revolutionary party whose members had in general distinguished themselves by being particularly hostile to Catholics." In his effort to win the Catholics he claims one man stood in his way and that man was Charles Carroll of Carrollton.⁵¹

However, after the war, the Anglican Church began to decline and no one was obliged to attend or support a church against his will. To the Catholics, however, "it was the bow of promise, betokening the cessation of the storm: tyrants no more trampled down their rights: all civil disabilities were abolished: the spirit of toleration shed its heavenly influence equally over all religious sects: the heaviness of sorrow gave place to the smile of joy, and happiness shed her divine ray over all classes of society."⁵² It was also easier for Catholics to obtain a Catholic education because all persons professing the Catholic religion were now on an equal basis with the Anglicans, Puritans, Quakers, and other religious denomin-

⁵¹Wealth and education did not seem beneficial to a Catholic in Maryland. "In spite of his wealth, education, and culture, in spite of his social standing which the anti-Catholic laws of Maryland could rob him, Charles Carroll of Carrollton, returned a disfranchised citizen, with no voice in the political affairs of the province. As a Catholic, he was only a little better politically than the slaves on his plantation. He was denied the public exercise of his religion, and was forced by these same laws to pay a double tax for the support of a clergy that could never be his own." Guilday, Rev. Monsignor Peter, Life and Times of Charles Carroll of Carrollton, Encyclopedia, New York, 1922, 246-247.

⁵²The Southern Literary Messenger, Vol. IV, June, 1868, 348.

ations. The Catholics busied themselves building churches establishing schools and colleges. Now for the first time since the rule made by the Catholic Lord Baltimore's, both Protestants and Catholics could go to the polls together. "The benign aurora of the coming republic lighted the Catholic to the recovery of his rightful political equality in the land which a Catholic proprietary had set apart for religious freedom."⁵³ A prominent, active leader in this cause was Charles Carroll of Carrollton, who I think rightfully deserves to be mentioned at this time since he was not only a wealthy Catholic and legislator from Maryland, but was also a great friend of Roger B. Taney.

Charles Carroll of Carrollton was a descendant from a wealthy family which settled in Maryland before the Protestant Revolution of 1689. He was educated at St. Omer's College and practiced law in England. He returned to Maryland in 1764 just in time to aid in the struggle for independence. Disabled in many ways by the laws, on account of his religion, he took part of the people and put everything he had into the fight for liberty and independence. "He triumphed with the people, lived to see them free and great and prosperous, and survived as the last of the noble band of signers of the Declaration of Independence."⁵⁴

⁵³Ives, 313.

⁵⁴McSherry, James, History of Maryland, Baltimore Book Co., Baltimore, 1904, 139. According to Russell, Charles Carroll of Carrollton always signed his name, Charles Carroll of Carrollton. The story that he first signed his name Charles Carroll and afterwards added of Carrollton to distinguish himself from others of the same name is only legendary. "It appears Charles Carroll of Carrollton, in all M.SS and books in the Archbishopal Library Balto.", 502; the same information is also given in The Catholic Historical Researches, Vol. 20, 92.

According to Ives, "It was the patriotism of Charles Carroll and his staunch loyalty to the American cause, unwavering in the face of bitter attacks on his religion, that finally won the respect of the leaders of the Revolution and made them heartily ashamed of the absurd attack on the Catholic Church in the protest against the Quebec Act.⁵⁵ He saved the American Revolution from being tainted with religious bigotry."⁵⁶

The result of the liberties both civil and religious gained by the Revolution had an effect upon, Michael Taney, who was repeatedly elected to represent his county in the House of Delegates. One piece of legislation, in which Mr. Taney was interested was the repeal of the law of primogeniture. The bill was passed although Taney opposed it, "he declared stubbornly that whatever the law his own estate would go to his own eldest son, following the custom of many generations. He would give a liberal education and make

⁵⁵The Quebec Act established the Catholic Religion in Canada, but caused quite a furor in the colonies. "The Parliament was not content with introducing arbitrary power and Popery into Canada with its former limits, but they have annexed to it vast tracts that surround all the Colonies. Does not your blood run cold, to think an English Parliament should pass an Act for the establishment of arbitrary power and Popery in such an extensive country. If they had had any regard to the freedom and happiness of mankind, they would never have done it. If they had been friends of the Protestant cause they never would have given such encouragement to Popery. The thought of their conduct in this particular shocks me. It must shock you too my friend. Beware of trusting yourselves to men who are capable of such actions! They may as well establish Popery in New York and the other colonies as they did in Canada. They had no more right to do it there than here -- Your lives, your property, your religion are all at stake." Hamilton, Alexander, "A Full Vindication of Measures of Congress From Calumnies of Their Enemies", The Catholic Historical Researches, Vol. VI, 160.

⁵⁶Ibid., 321

possible for them to study a profession, but after that they would have to take care of themselves. Thus he retrenched somewhat upon the customary family program, but it would go on essentially unchanged in that Michael would continue to own the undiminished home plantation."⁵⁷ Since his eldest son, Michael, would benefit from his father's idea of adhering to the law of primogeniture, his other younger sons would receive a liberal education and study for a profession.⁵⁸ Thus it was that Michael Taney encouraged and influenced, his son Roger, in the study and practice of law.

⁵⁷Swisher, 12.

⁵⁸The law of primogeniture implies "seniority by birth though legally it connotes the right of the eldest son to inherit the estate of a parent to the exclusion of all other heirs. . . . The movement for free and equitable inheritance was fostered by those sponsoring the American Revolution. Stimulated by the democratic philosophy of Thomas Jefferson, the Virginia Assembly attacked the system and finally in 1785 abolished it. . . . Other States followed this lead, though it was not until 1789 that Rhode Island abolished primogeniture. Since that date primogeniture has not operated in America, though in some states entailed estates descended to the eldest son." Adams, James Truslow, Dictionary of American History, New York, Scribner's, 1940, Vol. IV, 342.

CHAPTER II

MONICA BROOKE TANEY

The Brooke family, like the Taney family, were early settlers in the southern part of Maryland. A sketch of the Brooke family is essential to this thesis because the Brookes' intermarried with the Taney's'.

Robert Brooke arrived in Maryland from England in 1650. With him were "his wife, ten children and twenty-eight servants all transported at his own cost and charge and settled in St. Mary's county on the Patuxent."¹ Robert Brooke established his home at De La Brooke.² The following is the original land survey taken from Lord Baltimore's rent roll: "Robert Brooke - Lord of De La Brooke Manor, 4000 acres, in St. Mary's County surveyed July 28, 1650."³

Furthermore, it was not long before he was a prominent man in the county. Shortly after his arrival "Robert Brooke was appointed by Lord Baltimore Commander of Charles County, and was chosen by the Commissioners appointed by Cromwell for the reducing of the plantations Governor of Maryland."⁴

¹Lewis, William Draper, Great American Lawyers, Winston, Philadelphia, Vol. IV, 1908, 79.

²"One of the most distinctively English customs instituted by the Lord Baltimore in his Palatinate of Maryland was the granting and patenting of land under definite names. These names were then entered upon the Rent Rolls and the owner was always easily identified by his possessions, and nothing is more interesting than to follow the family history through the descent of their estates, which invariably had names as hereditarily their own as those borne by the heirs to estates in old England." Richardson, Hester D., Side Lights on Maryland History, Williams and Wilkins, Baltimore, 1903, 257.

³Ibid., 264.

⁴Scharf, 394.

However, Robert Brooke was removed from office, by Lord Baltimore, during the Governor Stone and Claiborne difficulty. "Lord Baltimore also expressed displeasure at the conduct of Robert Brooke," Andrews states, "who had shown a marked promptness in falling in with the plans of the parliamentary commissioners in the reducement of 1652. Hence, on the 28th of September, 1654, the Proprietary 'discharged Robert Brooke, esqr., late commander of Charles County, from being one of the Council, conservator or justice of the peace, or commander of any county within the Province.'"⁵ After the death of Robert Brooke, his son, Roger, was made a "Justice of the county from 1674 to 1684, and was of the Quorum from 1679 to 1684."⁶

Robert's grandson, Roger Brooke, owned the large landed estate on Battle Creek⁷ directly opposite the Taney's estate. The Brookes belonged to the "Court Circle" as it was known in St. Mary's. They like the Taney's became Roman Catholics. "Both the Taney's and the Brookes' were Roman Catholics at least as far back as the second generation before Roger Brooke."⁸ According to Father Treacy, "The Brooke family in England, though a few of its members unfortunately lost their faith, were distinguished during the Penal Days as bold and fervent Catholics. Sir Basil Brooke, who was knighted in the reign of Queen Mary, 'was always zealous in the cause of the Old Religion. Through his influence many laws favorable to the Catholics were passed in the

⁵Andrews, M.P., The Founding of Maryland, Appleton, New York, 1933, 122.

⁶Lewis, 79.

⁷This name may be spelled either way "Battle" or "Battel" Creek. It was named after a town in Sussex, England.

⁸Lewis, 80.

days of Mary."⁹ There were at least five of the Brooke family, of Maryland, who were Fathers of the Society of Jesus. Father Robert Brooke, suffered greatly trying to administer to his people. He was tried for saying Mass in the Chapel at St. Mary's City during court time. Governor Seymour severely reprimanded him, and warned him not to repeat the offense. This punishment did not seem sufficient to satisfy the Protestants in the County, they wanted the Chapel closed. They received their wish because the Sheriff of St. Mary's County was ordered "to lock up the Chapel and to keep the key in his possession."¹⁰ This example shows the feeling of the people toward Catholicism. The first church founded in Maryland, where the Catholics could hear Mass, was actually confiscated.¹¹

The Brooke family also intermarried with other prominent Maryland families. Hence, in 1770, Michael Taney V married Monica Brooke, daughter of his neighbor, Roger Brooke.¹² They made their home on his plantation on the Patuxent River. Here they reared a family of four sons and three daughters. Roger was the third child and the second son. He was born on the seventeenth of March, 1777.

Roger left a written account of his mother in which he says:

I do not know what was the religion of Robert Brooke, but my grandfather was a Roman Catholic; and, for the

⁹Ibid., 102.

¹⁰Treacy, 103.

¹¹"There is a tradition that the bricks were afterwards used to build an Episcopal Church and a barn was built upon the site of the first Chapel in Maryland." Russell, 385.

¹²"My mother was the daughter of Roger Brooke, who owned a large landed estate on Battel Creek, directly opposite to that which belonged to my father. He was lineally descended from Roger Brooke, who left a written memorandum of

reasons I have stated, my mother's education, as far as mere matter of human learning was concerned, was a very limited one. But her judgement was sound and she had knowledge and qualities far higher and better than mere human learning can give. She was pious, gentle, and affectionate, retiring and domestic in her tastes. I never in my life heard her say an angry or unkind word to any of her children or servants, nor speak ill of anyone. When any one of us or the servants about the house who were under her immediate control committed a fault, her reproof was gentle and affectionate. If any of the plantation servants committed faults, and were about to be punished, they came to her to intercede for them; and she never failed to use her influence in their behalf, nor did she ever hear of a case of distress within her reach, that she did not endeavor to relieve it. I remember and feel the effect of her teaching to this hour.¹³

Although few women in the middle of the seventeenth century were educated by the use of text-books, "they were endowed with executive ability and a rare natural intelligence."¹⁴ Taney's mother, like other women of this period, was unable to obtain an education because of the severe penal laws in existence at that time. "Parents were naturally unwilling to send their children to school where their religion would be scoffed at," Tyler says, "and the children subjected to humiliation and insult. The education of Roman Catholics, therefore, whose parents could not afford to send them abroad was generally nothing more than their parents could teach with occasional aid secretly given by the priest."¹⁵ However, the Revolution removed many obstacles in the way of education and political attainments for the Catholic

his settlement in Maryland, which has been preserved by his descendants."

Tyler, 22-23.

¹³Tyler, 26.

¹⁴Evidently the women did not need a great deal of education. They were considered almost as brainy as the men due to the fact that the opinion of

youth. The article dealing with religion which was submitted to the Convention of 1787, and the first of the ten amendments to the Constitution were favorable to the Catholics.

After a "century and a half, marked at times by bloodshed, often by cruelty and for the most part disgraced by selfish intolerance, the people of America had learned the lesson first taught by the Catholic Lords Baltimore and the Catholics of St. Mary's."¹⁶ The principle of religious liberty which had been proclaimed could again be put into practice. Browne gives the existence of the various acts of toleration in Maryland. "We now place side by side the three tolerations of Maryland. The tolerations of the Proprietors lasted fifty years and under it all believers in Christ were equal before the law and all support to churches and ministers was voluntary. The Puritan toleration tax lasted six years and included all but Papists, Prelatists, and those who held objectionable doctrines. The Anglican toleration lasted eighty years and had glebes, and churches, for the Establishment, Connivances for Dissenter, the penal laws for the Catholics and for all the forty per poll."¹⁷

Nevertheless, the social and economic conditions of Colonial Maryland, made it almost impossible for Catholics and non-Catholics to establish educational institutions. The towns were scattered due to the large planta-

ten intelligent women was equal to that of twelve men. Richardson, 149.
¹⁵Tyler, 21.

¹⁶Russell, 504.

¹⁷Browne, 185-186.

¹⁸"Congregations were so dispersed and such distances, and the clergymen were so few that many Catholic families could not always hear Mass, or receive any instruction so often as once a month." Shea John G., History

tions.¹⁸ Then, too, some of the planters, instead of sending their children to school, had tutors come into the home. The schools that were in existence, during Taney's early childhood were very meager. For example, when eight years old he, his older brother and sister attended school in a log cabin, which was three miles from the Taney home. Their attendance was very irregular, since it was determined, by weather conditions. The teacher according to Taney was, "a well-disposed but ignorant old man, who professed to teach reading, writing, and arithmetic, far as the rule of three. The reading and writing, as may well be supposed, were poor enough. . . . Our only school-books were Dillworth's spelling-book and the Bible; and these I believe, were the only books our teacher had ever read."¹⁹ This was the beginning of Taney's early book learning. Unfortunately, the Catholics, as yet, did not have sufficient time to develop educational facilities.²⁰ John Carroll was not hesitant when the opportunity for civil and religious liberty arose he took advantage of it.

of The Catholic Church in the United States, Shea, New York, 1888, Vol.II, 49.

¹⁹Tyler, 27-28

²⁰As we know there is practically nothing given about parochial schools before the Revolution: "The reason is apparent to all who are cognizant of the social and political status of Catholics in the English colonies. Ignored socially, crushed by iniquitous laws, persecuted by ingenious methods which came to life in Elizabeth's reign, Catholics living under the British flag found it to their advantage to hide from those who would rob them of their faith. From all the professions, in the army, the navy, in the skilled crafts and in the places of political preferment, Catholics had been eliminated completely. Catholics did not write much about their methods of education." Guilday, Life and Times of John Carroll, 791.

Taney was very conscious of his fiery temper. He "was always on the alert to keep it under subjection and keep his mind calm and free from prejudice."²¹ When Taney consented to become a member of Jackson's cabinet the legislators and public officials in Washington "little knew the man they were dealing with. In the mysterious drama of human life there was never yet trod the stage a more chivalric man than Roger B. Taney. The fiery temper of his soul has been chastened by that form of Christianity which is ministered by the Church that sits on the seven hills of Rome, the imperial mistress of the moral order of the modern world. In his Christian faith was his security from inflicting upon insolence the punishment which an angry temper would suggest."²²

Swisher stresses the fact that Taney's mother had an influence upon his character. "There is every reason for believing that the gentle and loving disposition of his mother did much, over a long period of years, to iron out of Roger's disposition the intenseness and harshness produced by poorly disciplined emotions, and the social snobbery which was almost inevitable in a boy brought up as he was among the planter aristocracy...In his personal relationships he was to develop the lovable and gentle traits of his mother, though with evidence in the background of an unrelenting will. It was doubtless from her that he learned personal kindness even to slaves."²³

Taney always maintained a deep love for his mother. During the war of

²¹Edward S. Taney, Roger B. Taney," The Green Bag, Vol. VII, 1895, p. 362.

²²Tyler, 234. Also stated in The Records of the American Catholic Historical Society of Philadelphia, Vol. XI, p. 36.

²³Swisher, p. 13.

1812, his mother "whom he loved with a singular devotion,"²⁴ left her home in Calvert County and went to live with her son, Roger.²⁵ She was buried in the little graveyard of the Jesuit Novitiate, in Frederick Maryland. Taney made arrangements with William Murdock Beall, before he left Frederick, to be buried by the side of his mother. While he resided in Frederick, Taney could be seen making daily visits to the little chapel.

The following letter shows that, after forty years when all "their trial" had past, his heart still clung to his mother with its early affections, and that his purpose to be buried by her side was unchanged."²⁶

Washington, May 6, 1864

My Dear Sir: - I have learned accidentally, some months ago, that some kind friend and pious hand had removed from the tomb of my beloved mother the moss and rubbish which fifty years had accumulated upon it, and restored it to the condition in which it was placed there by her weeping children. Residing in a distant place, I could not myself guard it from desecration, nor even the ordinary injuries of time; and you may readily imagine how grateful I felt to the unknown friend who had, unasked and without knowledge, performed that duty for me. I have often inquired and tried to discover to whom I was indebted for an act so touching and pious, but without success, until a few days ago, when my excellent friend and former pastor, the Rev. Father McElroy, called to see me, and from him I learned for the first time that I owed it to you, to whom I had hitherto been an entire stranger. I am most grateful for your kindness, and when the brief space of life in this world which may yet be vouchsafed to me shall have passed, and I am laid by the side of my mother, I hope you shall be near, and will feel assured that among my last thoughts will be the memory of your kindness.

²⁴"She was a woman of the most eminent virtues"., 143.

²⁵It is remarked that Taney's mother lived "under her son's roof" until her death. However, he did not have a home of his own until 1815. "In June

With great respect and regard,
Your grateful friend,
R. B. Taney

Mr. H. McAleer, Frederick City, Md.²⁷

In referring to Taney's mother, Swisher says: Monica Taney "did not concern herself with public affairs. She would not, like the wife of the first Michael,²⁸ have belabored kings and bishops with petitions to lower

of that year, three lots of a tract known as 'Long Acre,' adjoining Frederick Town, now located on Bentz St., was deeded to him for \$3,200. Delaplane, Edward S., "Chief Justice Roger B. Taney - His Career At The Frederick Bar", Maryland Historical Magazine, Vol. XIII, June, 1918, 130.

²⁶Tyler, 143.

²⁷Ibid., 484.

²⁸Michael Taney, the Sheriff of Calvert County, and his wife Mary were Protestants. In the following letter, Mary Taney relates the condition of the Protestant people to the Archbishop of Canterbury:

May it please your Grace, I am now to repeat, my request to your Grace for a church, in the place of Maryland where I live. Our want of a minister and the many blessings our Saviour designed us by them is a misery which I and a numerous family and many others in Maryland have groaned under. We do not question God's care of us, but think your Grace and the Right Rev. your Bishops, the proper instrument of so great a blessing to us. We are not, I hope, so foreign to your jurisdiction but we may be owned your stray flock, however the Commission to 'Go and baptise all nations' is large enough. But I am sure we are, by a late custom on tobacco, sufficiently acknowledged subjects of the King of England and therefore, by his protection, not only our persons and estates, but of what is far more dear to us, our religion. I question not but that your Grace is sensible that without a temple it will be impracticable. Neither can we expect a minister to hold out, to ride ten miles in the morning and before he can dine ten more - and from house to house in hot weather, will dishearten a minister, if not kill him.

Your Grace is so sensible of our sad condition and for your place and piety's sake have so great an influence on our most Religious and Gracious King that if I had not your Grace's promise to depend on, I could not question your Grace's intercession. 500 or 600 £ for a church with some small encouragement for a minister - will be extremely less charge than honor to His Majesty. Our church settled according to the Church of England which is the sum of our request, will prove a nursey of religion and loyalty through the whole Province. But your Grace needs no argument from me, but only this: it is in your power to give us many opportunities to praise God for this and innumerable mercies, and to importune His good-

customs on tobacco and make grants to build churches and supply ministers. She had other qualities, however, which were more deeply needed in the wives and mothers of Taney men. Taney held great esteem and affection for his mother to the last."²⁹

Taney's character consisted of qualities inherited from both his father and his mother along with some of his own. "He was a slender, flat-chested youngster apparently impetuous and hot tempered like his father, with a physique too frail to house a stormy disposition."³⁰ However, he developed a very sympathetic, kindly nature like that of his mother.

ness to bless His Majesty with a long and prosperous reign over us, and long continue to your Grace the great blessing of being an instrument of good to His Church - and now, that I may be no more troublesome I humbly entreat your pardon to the well meant zeal of your Grace's most obedient servant.

Mary Taney

Taken from the Maryland Historical Magazine, Vol. II, 225.

²⁹Swisher, 11.

³⁰Ibid., 12.

CHAPTER III

TANEY'S MARRIAGE TO ANNE PHEBE KEY

The Key's, were another outstanding family of Calvert County Maryland and closely allied with the Taney family. The earliest record of the family name is found in England, the name being derived from "quay", near where the family lived. The name Key is spelled in different ways which is due to various dialectic pronunciations. Consequently, the person writing the name often spelled it differently. The following list shows some of the variations of the Key name. "Quay, Kei, Kea, Kee, Kay, Keys, Keese, Keies, and Kease."¹

The first of the Key's to arrive in America were Philip² and Henry who settled on the north bank of the Potomac River. One of his sons, Francis married Ann Arnold Ross, the daughter of John Ross, Register of the Land Office of Maryland. Their son, John Ross Key inherited his father's estate. John Ross Key,³ married Ann Phoebe Penn Dagworthy Charlton, of Prince George's County.

¹Lane, Mrs. Julian C., Key and Allied Families, Burke, Georgia, 1931, 9.

²Philip Key was the son of Richard and Mary Key. He was born in the parish of St. Paul, Convent Garden, London, 1696 and came to America in his early twenties. He was an active member of Christ Episcopal Church. Ibid.

³According to Delaplaine, "The mansion to which Key brought his bride was the largest within a radius of many miles. Across its entire front, measuring nearly a hundred feet, was a two story portico with columns two feet in diameter. Extending from the main building were wings, in one of which lived the tenant and his family and in the other negro slaves." Ibid., 5.

Mrs. Key gave birth to a son who was christened Francis Scott Key.⁴

Another child was born to the Keys on June 13, 1783, and she was christened Anne Phebe⁵ Charlton Key. She was later to become the wife of Roger Brooke Taney.

The Key's lived on a plantation near Frederick, Maryland. The children were born in the spacious mansion situated in the fertile valley of the Monocacy River, a tributary of the Potamac. Their home, in northwestern Maryland was not far from the Pennsylvania state line. A stagecoach line ran nearby, which connected Frederick Town with Philadelphia. Taneytown,⁶ was about five miles up the road, where a tavern and accomodations for travellers could be found. A range of the Blue Ridge Mountains, and the Catoctin Hills bordered the plantation on the west.

Both Francis and Anne were devoted to each other.⁷ Anne was considered

⁴Francis Scott Key is the author of our national anthem, "The Star Spangled Banner". It was written during the War of 1812.

⁵I have also found this name spelled "Pheobe"

⁶"Taneytown is the oldest village in Carroll County. It was laid out about 1750 by Frederick Taney, who came from Calvert County, Maryland. It is situated on the main road from Frederick to York, Pennsylvania, and prior to the Revolutionary War, and for many years afterwards, was the principal thoroughfare between the North and the South. Frederick Taney, the founder of the town, was a member of the family of Roger B. Taney, the late eminent Chief Justice of the Supreme Court of the United States. Scharf, 837.

⁷Anne and Francis were the only children of John Ross Key. "They were remarkable for physical beauty, as well as for those rarer beauties of heart and mind that leave in some shape a lasting impression for those who follow. They loved enthusiastically all lovely things of God's creation, therefore they loved one another with peculiar devotion. Dedication of poem "My Sister" reveals his pure affection for his sister." Boyle, Esmeralda, Biographical Sketches of Distinguished Marylanders, Kelly, Piet, 1877, 237.

a very bright child, talented especially in music. When she was twelve years old "her father ordered for her a handsome pianoforte from England at a cost of more than twenty-two pounds." Anne and her brother were also fond of nature which they found close at hand.⁸

Key made the acquaintance of Roger B. Taney while both were studying law in Annapolis. It was here at the Capitol of Maryland, that the two men began their life-long friendship. Key established himself, as a lawyer, in Frederick Town, and Taney, after his defeat for re-election to the House of Delegates, in 1800, selected the same town.⁹ Taney now became a common visitor to the Key home in Frederick and to the plantation at Pipe Creek. It was clear that Taney's interest in Key's sister, Anne, was the reason for his frequent visits. "One of Key's contemporaries recalled that Anne had the most cheerful face and the most pleasant smile that he had ever seen."¹⁰ Taney had met Miss Key in Annapolis, and "her beauty and bright mind, united with womanly graces of the most attractive character, had won his heart."¹¹ Anne's temperment and kindness reminded Taney of his mother. It was at the Key mansion, Pipe Creek, that Taney married Anne Phebe Charlton Key, January

⁸It must have been an ideal setting as described by Delaplaine. In summer the shady lawn and the terraced garden adorned with shrubbery and flowers was a fine playground for the slender boy with dreamy eyes and for winsome little Anne. From the piazza and the front lawn, on a sunny day, they could gaze out across the fields and see the foothills that formed the horizon in the West--blue and green tints of the Blue Ridge which at sunset were 'curtained in clouds of crimson and gold.' At the foot of the hill, scarcely a stone's throw away was a spring." 7.

⁹Taney selected Frederick Town, rather than Baltimore, because so many of his friends from Annapolis lived there. Then also, Arthur Shaaff, a bachelor cousin of the Key's, who lived here, gave Taney considerable aid as a beginning lawyer. He gave Taney his first opportunity of appearing before the Frederick County Court.

7, 1806, in which the Rev. Dubois officiated.¹² As stated by Scharf there was a definite payment for all marriage licenses. "The rate or duty on marriage licenses issued by the clerk of the court was 25 shillings, and the act passed at the June session of the Assembly, 1780, made the tax payable in hard money."¹³ The marriage license of Roger Brooke Taney was issued sometime before 1830. There was considerable discussion over the marriage of Mr. and Mrs. Taney because of their religious beliefs. Mrs. Taney was strongly attached to the Episcopal Church while Taney was a devout Catholic.

The Rev. John Dubois who performed the marriage was ordained September 22, 1787 and was assigned to the parish of St. Sulpice. He came to America when the Jesuits were being attacked. He left Paris in disguise May, 1791 and landed in Norfolk, Virginia in July. Rev. Dubois was recommended by General La Fayette to the "Randolphs, Lees, and Beverleys, to James Monroe and Patrick Henry, he received the kindest and most respectful attentions from these distinguished statesmen and their numerous friends, and for want of a Catholic Chapel, said mass in the Capitol. This liberality, which even at the present day will appear astonishing, is still more surprising, when it is remembered, that his immediate predecessor in the pastorship of Frederick, Father Frambach was obliged to disguise himself, when he visited

¹⁰Delaplaine, Edward S., Francis Scott Key Life and Times, Biography, New York, 1937, 37.

¹¹Schaff, Vol. I, 395.

¹²It was recalled later that Taney, "was a tall, gaunt fellow, as lean as a Potomac herring, and shewd as the shewdest. His marriage to bright little Anne was likened to the union of a hawk with a sky-lark." Delaplaine, Francis Scott Key Life and Times, 47.

friends in Virginia."¹⁴ In 1794, Bishop Carroll called Father Dubois to Maryland, to fill the vacancy left by the retirement of Father Frambach. There were not very many Catholics in Frederick, but he found numerous families scattered throughout western Maryland.¹⁵ "The Rev. Mr. Dubois was Rev. John Dubois, the founder of Mount St. Mary's College¹⁶ and, in 1826 made bishop of New York. So the ceremony was performed by a Catholic priest."¹⁷

Various authors agree that Taney did make a prenuptial agreement with his wife. Taney's great grandson, the Rev. Roger B. Taney Anderson, O.H.C. of the order of the Holy Cross, an Episcopalian order says: "There was a pre-nuptial agreement between Chief Justice Taney and Miss Key, whereby the sons were to be brought up Roman Catholics and the daughters Episcopalians. You say that such a tradition existed during the life of the Chief Justice - the strongest evidence of which is the fact that the daughters were all Anglicans with the one exception, Roger T. Taylor, whose mother submitted to Rome. He is a great-grandson also."¹⁸

¹³The money from these licenses was paid into the state treasury by the clerk. Scharf, Vol. I, 428.

¹⁴McCaffery, Rev. John, "Discourse of the Rt. Rev. John Dubois, D.D., " Catholic Magazine, Vol. II, May, 1843, 281.

¹⁵Father Dubois had a considerable amount of territory to cover in order to perform his duties. "he was pastor of all Western Maryland and Virginia and for some time the only Catholic priest between the city of Baltimore and the city of St. Louis." Ibid., 282.

¹⁶Father Dubois founded Mount St. Mary's College, at Emmitsburg, in 1808. It is often called "the Mother of Bishops".

¹⁷"A Pre-Nuptial Agreement", Catholic Magazine, 88.

¹⁸In the records made by Taney's grand-niece, Mrs. Charlton Morgan, of Lexington, Kentucky and by his great-grandson, Rev. R. B. Taney Anderson of New York, Taney did make such an agreement with his wife. Ibid.

Mrs. Taney being a member of the Episcopalian Congregation, the daughters were to be brought up in the religion of the mother, and the sons were to follow the faith of the father, Roman Catholic. Taney had only one son, who died while still a youth. Evidently, during this time, the Church permitted this sort of arrangement. "Prior to their marriage they made what seems to have been the customary agreement at that time."¹⁹ Then again Steiner says, "according to the rule of the day, the children should follow the faith of the parents of their own sex."²⁰

The coming of Protestantism in the sixteenth century renewed the problem of mixed marriages. The Church found it very difficult "where civil laws prescribed that in mixed marriages the boys born of the union should follow the religion of the father and the girls that of the mother. Without betraying their sacred trust, the Popes could never sanction such legislation, but in order to avoid greater evils they permitted in some states of Germany a passive assistance on the part of the parish priest at marriage entered into under such conditions."²¹ Pope Benedict XIV issued a declaration concerning mixed marriages in Holland and Belgium, 1741. He "declared mixed unions to be valid, provided they were according to the civil laws, even if the Tridentine prescriptions had not been observed. A similar declaration was made concerning mixed marriages in Ireland by Pope Pius, in 1785, and gradually the 'Benediction dispensation' was extended to various localities."²²

¹⁹Umbreit, Kenneth Bernard, Our Eleven Chief Justices, Harper, New York, 1938, 211.

²⁰Steiner, 44.

²¹Catholic Encyclopedia, 699.

²²Ibid.

By degrees, however, the Popes felt constrained to make various concessions for mixed marriages, though they were always careful to guard the essential principles on which the Church founds her objections to such unions. Thus Pius VI allowed mixed marriages in Austria to take place in the presence of a priest, provided no religious solemnity was employed, and with the omission of public banns, as evidence of the unwillingness of the Church to sanction such unions. Similar concessions were later made, first for various states of Germany and then for other countries."²³ Probably because of these declarations by the various Popes, Taney was allowed to make a pre-nuptial agreement with his wife.

This was a very trying period for the Catholic Church in the colonies. The Church was under the jurisdiction of the Vicar-Apostolic of London. "So far as the documents at our disposal warrant it," says Guilday, "it seems safe to conclude that from 1634 down to 1696, the year of the special decree Alids a particulari, of Innocent XII, by which an attempt was made to bring harmony between the regular and secular clergy in England, there is no evidence for the exercise of any canonical rights over the colonies by the ecclesiastical superiors in England. The question does not seem to have been raised again until 1715, when Maryland Clergy admitted that they were

²³Ibid., "The administration of the Sacrament of Marriage has always caused trouble, and the bishops felt that it would take time before their flocks would be ready to accept a general rule for its celebration. We have key to this difficulty in one of Dr. Carroll's letters to Plowden (Feb. 12, 1803): Here our Catholics are so mixed with Protestants in all the intercourse of civil society and business public and private, that the abuse of intermarriage is almost universal and it surpasses my ability to devise any effectual bar against it. No general prohibition can be exacted without reducing many of the faithful to live in the state of celibacy, and in sundry places there would be no choice for them of Catholic matches."

subject to London or to Quebec. . ."24

Then again the suppression of the Jesuits, in 1773, and the outbreak of the Revolutionary War, in 1775, made it more difficult for the Catholic Church to gain ecclesiastical jurisdiction over the Church in the colonies. During the Revolution, the American Vicar, Rev. John Lewis, governed the colonies, but at the conclusion of the war, the American priests desired a superior chosen from the colonies. Foreign conspiracy was discovered to appoint a prelate. Accordingly a petition was sent to Rome asking for an American Superior and the Rev. John Lewis was suggested. In 1784 the Secretary of the Congregation de Propagande Fide recommended the Rev. John Carroll. Their choice was confirmed by Pope Pius VI, who issued a Bull naming the Rev. John Carroll Superior of the thirteen colonies.²⁵

The delay in Carroll's appointment "must be viewed not from the standpoint of indifference or apathy on the part of Rome, but solely from the motives of policy. The Holy See realized the grave danger to the Church discipline which might arise in the absence of a canonically appointed superior, but there was nothing to gain in forcing the issue upon the rebellious colonies. It is to John Carroll's credit that, when the Church here was finally organized under his leadership, he quickly gained control of all

Guilday, Life and Times of John Carroll, 779-780.

²⁴Guilday, Life and Times of John Carroll, 130.

²⁵"In 1789, Father Carroll was named Bishop with Baltimore as his See, and the entire Republic as his diocese. He was consecrated at Lulworth Castle, England, on August 15th, 1790 by the Rt. Rev. Charles Walmsly, Bishop of Roma, and Senior Vicar, General of England." Phelan, Rev. Thomas P., Catholics In Colonial Days, Kenedy, New York, 1935, 279-280.

elements that might have caused disorder. For the next ten years the administration of the Church in the colonies was practically paralyzed. The work in the American vineyard went on in a listless way, as it was bound to, without a shepherd and manned by a little group of priests who had been dishonoured and disbanded by the Holy See."²⁶

The appointment of Father John Carroll established the Catholic Church in America. The Catholic Church in the colonies was no longer under the jurisdiction of the Vicar-Apostolic of London. Also the Catholic Church in America was given the power of self-government under the jurisdiction of Propaganda.

Shea has summed up the effect of the appointment in the following paragraph: "The action of the Holy See had given the Catholics in the United States a separate organization; but among priests and people who had just emerged from the oppressed condition so long maintained by the penal laws, the temporary tenure of the Prefect, his absolute dependence on the Propaganda, and the extremely limited powers given him, were the source of much uneasiness."²⁷

The critical period in American Catholic history, 1784-1789 was simultaneous with the five years of the Prefectship of Father Carroll.

The times were hard; there were few comforts of any kind; the Catholics were not numerous and were poor; they were just beginning to enjoy freedom after two and one half centuries of intolerance and persecution.

²⁶Guilday, Life and Times of John Carroll, 162.

²⁷Shea, 245-246.

Freedom brought a number of evils in its train; independence made its spirit felt in every aspect of American life -- in literature, in social customs, in politics, and even in religion. And to this attitude of the American Catholic mind there came the worst evil of all -- unworthy priests. It was not that the private lives of these men were always morally reprehensive, for the Catholic laity could be trusted to repudiate the ministrations of the hierling. But the truth is that it was open season with ecclesiastics, many of whom left their dioceses in Europe for their dioceses' good; and turbulent men, loving more the adventure of the times and yielding to a desire for change, found their way here, and in spite of canon law of church authority, set up their standard in the midst of flocks whose rejoicing in their presence for eagerness to hear the Word of God and to receive the Sacraments clouded their judgment on the caliber of the shepherds who came; unasked and, in so many cases unannounced. John Carroll had the difficult task of winning these men back to ecclesiastical discipline; he had the severer task of controlling those among the laity who were led astray by the intruders.²⁸

In 1791, Bishop Carroll assembled his clergy in the First National Synod of his diocese. The sessions lasted four days and "the legislature enacted concerned the administration of the sacraments, the observance of holy days of obligation and of Sunday Mass, regulations for clerical life and the support of missions."²⁹

The longest decree was that on the Sacrament of Marriage. Mixed marriages were to be discouraged as much as possible. The priests of the assembly realized the difficulty of avoiding mixed marriages, nevertheless,

²⁸Guilday, Life and Times of John Carroll, 231-232.

²⁹Guilday, Peter, A History of the Councils of Baltimore, McMillan, New York, 1932, 65.

the pastors were urged to use their influence to prevent these unions.

Because of the conditions of the times, it is possible that Taney and his wife could have made a pre-nuptial agreement whereby the boys would be reared in the faith of the father, and the girls might adopt the religion of the mother. And in spite of this fact Taney could still remain a devout Catholic.

Taney's marriage was a contented, successful happy one. "No man was more happily married than Mr. Taney and the happy circumstances of this period shed a benign influence over his studious and contemplative life, and nurtured that bland suavity of manner which so distinguished him, while they made the home circle the sphere of his happiness."³⁰

The only son of this marriage died in infancy, and the six girls were all reared as Protestants. Taney, it seems, never tried to convert his family, nor did Mrs. Taney ever fear that her husband might influence the girls to his religion. Mrs. Taney frequently allowed the girls to attend services at the Catholic Church, with their father "when the bell for vespers rang, and Taney prepared to leave the house in order to attend services," Mrs. Taney would say, "Girls, which one of you will go to church tonight with your father?"³¹ Tyler who was both an intimate friend and a Protestant, states that "Taney never obtruded his religious doctrines upon anyone. He often talked to me, in incidental conversations, on the general subject of religion; but the mantle of his charity was as broad as the sinning world."³²

³⁰Tyler, 102.

³¹Tyler, 477.

³²Ibid., 475.

That Taney did not care to have religion discussed at his table may be gathered from the incident which occurred in the Taney home, and which was recorded by Umbreit: "Religion was not a subject which he cared to discuss and his extreme courtesy did not prevent him from cutting short a priest who, at a dinner at the Taney's, had begun to expatiate on the advantages of Catholicism, with the sharp remark that he never allowed religion to be discussed at his table."³³

Taney was very devout and regular in the observance of his religious duties at home and in Washington. Every morning, while he lived in Frederick, he would be seen at the little chapel of the Jesuit Novitiate. Tyler gives an interesting story concerning Taney's method of prayer. "Mr. Justice Daniel, of the Supreme Court (while all judges were boarding at the same house in Washington) just before the hour for going up to the Court, opened the door of the room of the Chief Justice, and found him on his knees at prayer. He withdrew instantly, much mortified that he had forgotten to rap before he entered the room. He made an apology as soon as possible for the intrusion, which the Chief Justice accepted, with the remark that it was his custom, before he began the duties of the day, to seek divine guidance through prayer."³⁴ Although Justice Daniel was a very good friend of Taney's he never knew of this religious practice.

Chief Justice Taney's religion, says Tyler, "was the moving principle of his life. It filled him with every Christian grace. Faith, hope, and

³³Umbreit, 211

³⁴Tyler, 477.

charity led him in his high career. The humblest received his kindness, while the great were charmed with his courtesy."³⁵

During Taney's residence in Frederick, the Rev. John McElroy who was in charge of the Roman Catholic Church was a close friend of the Chief Justice; and remained so practically all of his life. It was Father McElroy, according to Tyler, who gave an account of Taney's confession in the following words "that his well known humility made the practice of confession easy to him. Often I have seen him stand at the outer door leading to the confessional, in a crowd of penitents, a majority colored, awaiting his turn for admission. I proposed to introduce him by another door to my confessional, but he would not accept of any deviation from the established custom."³⁶ Many of those in line recognized the Chief Justice and offered their place to Taney. Taney thanked them kindly, but insisted on taking his turn.

Again Father McElroy offered to make arrangements to hear Taney's confession at his own convenience, but Taney refused. Taney had the feeling "that since his Confession was to God through the person of the priest he was no better than any other individual and ought to take his turn with the others. While he was Chief Justice of the United States Supreme Court he declared to his confessor who wished to save him time in the fulfillment

³⁵Tyler, 478.

³⁶Ibid., 477.

of his duty of Confession that the Supreme Court heard the various cases in regular succession and that no amount of influence or respect for persons could bring about any distinction as to the order in which the cases would be heard."³⁷

Moreover, Taney seems to have been under the guidance and influence of the Jesuits most of his life, and especially so while in Frederick. "Justice Taney had a deep and abiding reverence for the Jesuits and, as he had known them personally and intimately and was a man who knew men and their ways, his judgment with regard to them must surely be considered as emplying the highest compliment to their character and citizenship."³⁸

Although Taney was strict in his religious observances, nevertheless, he was fond of social relaxations. "It was common for gentlemen to dine together on the Fourth of July under the shade of the beech trees on the banks of the Monocacy River, which flowed between wooded banks two miles from Frederick."³⁹ Then, too, he enjoyed horseback riding and took many trips through the mountains. "In these excursions the picturesque aspects of the Catoctin Mountains had been so familiar to him that when in after-years he could speak of them, his descriptions were so accurate that they seemed as if frescoed on his memory."⁴⁰

Mrs. Taney like her husband, was fond of nature. Both Mr. and Mrs. Taney were "passionately found of flowers and Taney always thought well of

³⁷Walsh, 288.

³⁸Ibid., 234.

³⁹Scharf, 395.

⁴⁰Ibid.

one who liked them."⁴¹ In letters to his wife, from Washington,⁴² Taney often referred to the flowers in the grounds surrounding the buildings as is shown in the following letter:

Washington, April 1, 1850

I write you a brief note, my dear wife, to tell you that I have arrived, - with a journey less unpleasant and fatiguing than I usually experience in the cars; for the day was fine and the cars not crowded, and Howard and I sat together. . .

Having just left you all, my room is lonely and sad today, and I feel much more disposed to lie down and think of you all at home than do anything else. This bright weather will, I hope, continue, and enable you to exercise and be more in the open air. How glad I should be to walk with you.

I find the hyacinths in bloom in the Capitol grounds, and walked about them alone after Court adjourned, to enjoy the mark of the opening spring. In a week they will be beautiful. Much love to all.

Most affectionately
R.B. Taney ⁴³

For many years, the Taney family met annually at the Key estate, Pipe Creek, to enjoy a family reunion. The evening activities were usually conducted in the following manner, "At evening when the labors of the farm were over, the negroes were summoned to prayers with the family, which were usually conducted by Francis Scott Key when he was there, and by his mother when he was away. After prayers, almost every night, as was common on the plantations of Maryland, music and dancing might be heard at the quarters of the negroes."⁴⁴

⁴¹Tyler, 470.

⁴²Mrs. Taney never went to live in Washington while her husband was holding office.

⁴³Taney to Mrs. Taney, Ibid.

Apparently the only difference that existed between Taney and his wife was religion. According to Tyler, Chief Justice Taney, "had the greatest blessing of a wife who was to him 'the gust of joy and the balm of woe.'"⁴⁵ After many years of married life Taney's love and devotion for his wife was expressed in a letter to her:

Washington, January 7th, 1852

I cannot, my dearest wife, suffer the 7th of January to pass without renewing to you the pledges of love which I made to you on the 7th of January forty-six years ago. And although I am sensible that in the long period I have done many things that I ought not to have done, and left undone many things that I ought to have done, yet in constant affection to you I have never wavered, never being insensible how much I owe to you, and now pledge to you again a love as true and sincere as that I offered on the 7th of January, 1806, and shall ever be.

Your affectionate husband,

R. B. Taney⁴⁶

Shortly after the above mentioned letter was written, a great affliction weighed heavily upon Taney. He and his family had been accustomed to spending their summers, especially in his later life, at Old Point Comfort.⁴⁷ It was during the summer of 1855 that a great sorrow befell the Chief Justice.

⁴⁴Scharf, 395

⁴⁵Tyler, 316

⁴⁶Taney to Mrs. Taney, Ibid.

⁴⁷Taney had occupied, for the last three summers, the cottage at Old Point Comfort opposite the home of Colonel De Russy. He and his whole family were well liked by all those with whom they came in contact. It was also at this summer cottage that Taney began to write his autobiography.

On September 29, Mrs. Taney died of yellow fever, and the next day, his youngest daughter, Alice, succumbed to the same disease. A correspondent of the Richmond Dispatch, in announcing the death of Mrs. Taney said:

This esteemed and beloved lady had been in feeble health for some days past, and though her disease had none of the marks of yellow fever, soon after her death the skin bore unmistakable evidence, by its hue . . .⁴⁸

In the following letter, Taney, reveals his great sorrow to Ethelbert Taney, a cousin, to whom Taney was particularly attached.

Baltimore, October 22, 1855

My dear Ethelbert:

It gave me such pleasure to receive your letter; for when we are in affliction, we are most sensible of the kindness and sympathy of our friends. I have indeed passed through most painful scenes, and have not yet gained sufficient composure to attend to business. But it has pleased God mercifully to support me through this visitation; and to recall my bewildered thoughts, and enable me to feel this chastisement comes from Him, and that it is my duty to submit to it with calmness and resignation. And I do not doubt that, severe as the trial is to those who survive, it is in the mysterious ways of Providence, introduced in justice and mercy to the living and the dead.

You, too, have lost a friend in my excellent wife. For neither she nor I ever lost our interest in you, and took pleasure in hearing from time to time of your good conduct and success in life.

My age and feeble health put it out of my power to accept your kind invitation to visit you. I should be glad to spend some time with you and your family; but my health has suffered from the shock, and at my time of life, I can hardly hope it will

⁴⁸The Baltimore Sun, Vol. XXXVII, Oct., 1885.

be much better. My great duty is to prepare myself for that change which must soon come; and I trust that I shall mercifully be enabled to do so.

May you and those around you be long spared, and be a blessing to one another; and may we all meet hereafter in a happy eternity, is the prayer of

Your affectionate kinsman,
R. B. Taney⁴⁹

This letter discloses Taney's abiding faith in his religion. Besides, such a declaration of faith on the part of Taney could only be made to a friend, for it has been stated before, in this thesis, that Taney never thrust his religious doctrines upon any one.

Swisher says: "So great had been Taney's devotion to and dependence upon his wife that now, at seventy-eight years of age, there was a real danger that he would collapse completely when deprived of her companionship. It was here that his religion, an intimate spiritual reality rather than a mere commitment to creed, came to his aid."⁵⁰ Upon his return to Baltimore, Taney refused to see anyone, except Father McElroy and declined all invitations until he could make a visit to Church. Father McElroy says: "A few days after the death of his wife I called on him in Baltimore. He was much crushed and broken in spirits after such a severe bereavement, as might be expected. He received me, however, with his usual kindness and courtesy. During my visit, a gentleman, with his carriage, sent to let Mr. Taney know that he came expressly to give him a little airing in a drive to the country for an hour or two. He (Mr. Taney) sent for answer that he

⁴⁹Taney to Ethelbert Taney, 473-474.

⁵⁰Swisher, 469

must decline his kind offer; and then, turning to me, he said: "The truth is, Father, that I have resolved that my first visit should be to the cathedral, to invoke strength and grace from God, to be resigned to His holy will, by approaching the altar and receiving holy communion, -- preceded of course, by confession."⁵¹

That Mrs. Taney⁵² was a woman of high "intelligence as well as cultivation," and seems to have been, in every respect a suitable mate for her husband may be gathered from a sermon preached by Rev. Dr. Clover, of the Protestant Episcopal Church: "Mrs. Taney was a woman of a noble and cultivated mind, of deep religious convictions, and of a truly Catholic spirit. Courted by the influential, the affluent, and the fashionable, she cast aside the pleasures and attractions of the world, that she might the more fully and freely devote her life to the Savior. From many an abode of virtuous poverty in the city of Baltimore, the prayer of gratitude has gone up in her behalf to heaven. One of the most unselfish women I have ever known, her life was a beautiful exemplification, not only of active benevolence, but of that spirit of true charity so admirably depicted by the Apostle Paul. Such was the wife who knew all the heart secrets of the Chief Justice, and, by her inspiring love, gave tone and vigor to his great soul, and shed around his family circle the divine charm of womanly charity and

⁵¹Father McElroy to Samuel Tyler, 476-477.

⁵²The body of Mrs. Taney, however, as she died a Protestant, could not be buried in a Catholic cemetery. Consequently, she was placed beside her relatives in Mt. Olivet Cemetery.

grace. He was a devout Catholic; she a devout Protestant; but so sure was each that the other was a Christian, that no doubt ever hindered their mutual belief that they would meet in heaven."⁵³

⁵³Tyler, 469.

CHAPTER IV

DAUGHTERS' ROLE IN TANEY'S LIFE

The daughters influenced the life of their father by using every effort to make his life a happy, contented, and peaceful one. In later life Taney was especially dependent upon his daughters. The family was very intimate if judged by the letters and various incidents in their lives. Whatever might happen to one member was the concern of all the others. They were very close to one another.

The Taney's first daughter, Anne, was born in the summer of 1808. The births of the other children occurred in the following order with approximately two years difference between each: Elizabeth, Ellen, Augustus, Sophia, and Maria. Alice the youngest, was born seven years later, 1827.¹

From all indications Taney was anxious to have sons who might bring distinction and honor to the family name. His wish, however, was not realized for six of the seven children were girls. Augustus, the only boy died in infancy. His delicate health, which he inherited from his parents, and the Yellow fever epidemic, of 1818, were responsible for his death. Unfortunately, the son's death not only discontinued the family name, but ended Catholicism in the family for a time, since the boys were to be reared in the Catholic faith.

Immediately following the son's death, the health of the whole family was in a serious condition. Taney was very grateful, in the Autumn of 1820,

¹ Steiner, 44.

just after, Anne, his eldest daughter, had been spared;

You will have heard my dear Madam before this reaches you of the illness of our dear child, and I am sure you will rejoice to hear that she is recovering. On Saturday and Sunday last we had scarcely a hope that she would recover. It has pleased Heaven in the fullness of mercy to raise her up again, and save us from the severe chastisement with which we were threatened. She has been well enough to ride out yesterday and today we hope will be strong enough by Monday next to undertake a journey to the sulphur spring near Martinsburg in Virginia, where Anne and myself received much benefit a few years ago, and where we intend to spend a week or two in this month if the weather continues good. And as we all need change of air and exercise we shall probably go on westward until the cold weather drives us back. Mrs. Taney . . . has not . . . recovered her strength, and frequently suffers from headaches, and the fatigue and agitation produced by the illness of our dear Anne has enfeebled her a good deal. As to my own health it is hardly worth complaining about. It has been so long bad I have got used to it, but if I am not able to add a little to my strength before the cold weather sets in, I fear I shall have a bad winter of it.²

Similar letters were written by Taney depicting various incidents from the life of his family.

The Chief Justice would rather spend his leisure time in the company of his family than elsewhere. He was not very anxious to mingle in the gay society of Annapolis, Baltimore, and Washington,³ but his position required that he participate in certain social affairs both at home and in Washington. It does not necessarily mean that Taney was unable to make the required adjustments to suit various occasions, for at a dinner, in honor of Mr. Wirt, who had just retired from the office of Attorney-General of the United

²Swisher, Taney to Mrs. Anne Key, 102.

³The fact that Taney had very poor vision was probably one reason for not

States, Taney mastered the situation creditably.

I dined yesterday with the Duke of Saxe-Weimar, at Mr. Oliver's. He is about thirty-five years old, and looks like a Russian, or one of those gigantic Cossacks. He speaks English tolerably well, yet he has the apparent dullness of apprehension which always accompanies a defective knowledge of a language, and renders it rather up-hill work to talk with him. He sat between Mr. Oliver and Mr. Barney neither of whom seemed to be able to find him in talk. Taney, who you know is a pious Roman Catholic, as well as a most amiable gentleman, said, "Come Mr. Barney, Mr. Wirt and I sit side by side quite enough in court; let me change places with you", his object being to amuse the Duke. The change was made and Taney and the Duke got into a side talk. The Duke was soon observed to speak with a most 'saracenic and vandalic' fury and as I was afterwards informed was pronouncing a philippic against the Roman Catholic Religion, which he blamed for all the political conspiracies in Europe. Taney took the occasion to tell him that he was a Roman Catholic. This produced some embarrassment but the Duke got over it. Taney changed the subject to the war in which the Duke had figured.⁴

While in Washington, Taney was frequently lonely because his family did not always accompany him on these trips. Nevertheless, he kept in close contact with the activities of his family by means of correspondence,⁵ for

entering into society. "This imperfection of vision is a most unfortunate infirmity for a man in public life, who must unavoidably become acquainted with a multitude of people whose good-will he desires to preserve. And there is no readier way to lose it than to pass, without a sign of recognition, one to whom perhaps, you were introduced the day before, and familiarly conversed with. Yet I have no doubt this has happened to me hundreds of times in the streets of Baltimore and Washington; and that I have passed, without knowing them, men for whom I entertained a real respect and regard, and whom I shall at all times have been glad to meet as friends, if I had known who they were; I can now read ordinary print or write by the light of a single candle; but I sometimes pass my own children in the street without knowing them until they speak to me." Tyler, 86-87.

⁴Taney, Mary Florence, "Roger Brooke Taney", Records of the American Historical Society of Philadelphia, Vol. XI, March, 1900, 35. Also in Tyler, 161.

example, when Taney accidentally received a minor accident, he related it to, Alice, his youngest daughter; "I was shut up in the house for four days with my black eye, for although it did not give me pain it looked so badly, that I was ashamed to walk the streets. But now I walk every evening a little before the sun goes down, as far as the war office, and often take a look at our old house."⁶

While four of the daughters married and two remained single, all continued to be a part of the old home. "They added to the warmth and cheeriness to which Taney returned with so much delight."⁷

None of the daughters, however, married men of prominence or wealth. Anne, the eldest, married James Mason Campbell, a young Baltimore lawyer, who was Taney's favorite son-in-law. Taney had a deep desire to have Campbell made District Attorney for Maryland. He tried to obtain this position for Campbell, by writing letters to both Polk and Buchanan, but he was unsuccessful.

Frequently, the Campbell family found themselves in financial distress and appealed to Taney for aid. Taney signed notes whereby Campbell was allowed to borrow money. At one time Campbell was unable to borrow and he

⁵The following letter was written to his daughter Sophia: "I am very glad to get a letter from you, but am sorry to hear your dear mother and Maria are both sick. I am anxious to see you all again, for I have been very sick ever since I left home. I do not feel as if I should get well until I return. Give my love to Maria and tell her I hope to be at home Saturday or Sunday, but do not know certainly when I can get away. Give my love to all."

"Taney Letters", Taney to Sophia, Maryland Historical Magazine, Vol. XIII, June, 1918, 171.

⁶Swisher, 452.

⁷Ibid., 453.

requested Taney to borrow it from the Union Bank, but Taney declared, "It is with more sorrow than I can well express that I refuse anything you ask. But in my official position, I have an insuperable repugnance to ask pecuniary favors from those who may come before me as suitors in my court. . . . I will as I am sure you know, do anything in my power to relieve you from embarrassment, except that of asking to borrow money for myself, which would create the impression that I was living beyond my income and in need of pecuniary favors, which I have already thought no judge could do without losing caste more or less, and disturbing in some degree the public confidence in his entire independence. Think of some other way, and let me know how I can aid you."⁸

After the death of Mrs. Taney, the Chief Justice no longer retained his old home, consequently, his two daughters accompanied their father to Washington⁹ on his official business. Whenever Taney returned to Baltimore he resided with the Campbell family.

⁸ "After the death of Mrs. Taney it was impossible to leave my two daughters who lived (with) me in Baltimore alone during the winter when I was obliged to be here - and determined to bring them with me, & to live at a boarding house while my official duties required me to be in Washington. I did so last winter, bringing all my household servants with me - and spent the summer & part of the Autumn at the Springs - still taking my servants with me. But finding that from my own infirm state of health, as well as the delicate health of one of my daughters that we unavoidably suffered much discomfort in a boarding house, I endeavour to procure a ready furnished house for the winter. But after much search I was unable to procure a suitable one - and was finally obliged to take the one I am now in for a year - or again return to board. Yet although I have taken the house for a year I have never intended or expected to remain in it, except in the winter when my official duties require me to be here. I have not taken it with the intention of becoming a resident - or of abandoning my residence in Maryland. I am staying here merely because my public duties compel me

Taney often discussed current topics with his son-in-law, John Campbell. In a letter to Campbell, Taney, expressed his fear of the organized movement against foreigners. The rather large number of Catholic immigrants entering the country, during the nineteenth century, were not welcomed because of the growing hostility towards foreigners and Catholics. Taney felt that the Protestant Clergymen were responsible for such action; "the clergymen have gotten it up and direct it behind the scene. I could name several churches in Baltimore in the vote against Catholics."¹⁰

Finally, when this organization gained momentum, it was recognized as the "Know Nothing Movement."¹¹ Due to the fact that all its proceedings were secretly participated in, the party managed to exist unmolested for several years. Their slogan was "America for Americans," but according to Shaughnessy, a more correct title would have been "America for American Protestants."¹²

to be here - and have brought with me my household servants to be with me while I remain. And I have always regarded myself as a sojourner in Washington & my servants sojourning with me while public duty detains me here." Taney, Vol. XXXII, Sept., 1937, 3.

⁹Swisher, 458.

¹⁰Ibid., 459.

¹¹To the inquirer who asked a member, who had attended a meeting where he had been, invariably the answer was, "I don't know" and the same answer was always given. Consequently, the organization was known by the popular name, "Know Nothing". Schmeckebier, Lawrence Frederick, "History of the Know Nothing Party in Maryland," Johns Hopkins University Studies in Historical and Political Science, Johns Hopkins, Baltimore, Vol. XVII, 1899, 10.

¹²Shaughnessy, Gerald, Have the Immigrants Kept Their Faith? Macmillan, New York, 1925, 142.

The organization began in New York, in 1852, and spread rapidly throughout the country. It appealed to the mob through the medium of religious prejudices and lies.¹³ An example of bigotry was displayed by members of the party when the Pope sent a stone to be placed within the Washington Monument. The resentment and hostility of some members who attended a large meeting of Native Americans, "at Commissioner's Hall, Southwark," caused a number of resolutions to be adopted "protesting against the acceptance of the block." The Monument Association was asked to "recall their letter of acceptance, recommending the Associations that have contributed blocks to the monument to withdraw unless this request is complied with, and if the Pope's block is placed in the monument, that a protest block be prepared with a suitable inscription, and that the people insist on its being placed on top of the objectionable block."¹⁴ In March, 1852, a group of Know Nothings gained control of the Monument Association and the block of marble, sent by the Pope, disappeared. Although the "Know Nothing Party" flourished from 1851 to 1858 it dissolved after failing, in 1856, to elect its presidential candidate.¹⁵ The bigotry during this period was a revival of the old Native American Movement in the early part of the century. "This in turn was only a natural inheritance of the partisan politics of post-Revolutionary days,"

¹³The so-called confessions of Maria Monk were circulated.

¹⁴Feiertag, Sister Loretta, Clare, American Public Opinion on the Diplomatic Relations Between the United States and the Papal States, Catholic University of America, Washington, 1933, 78-79.

¹⁵Their candidate was Fillmore, who as vice-president, had succeeded to the presidency on the death of President Zachary Taylor, in 1850.

says Walsh, "which was supported by some of the best minds in the country" and was "founded on very bitter bigotry."¹⁶ Organizations of bigotry similar to that of Know Nothingism manifest themselves in every generation, at least, in the history of the United States.

Another member of the Taney family, Elizabeth Maynardier, married William Stevenson, a Baltimore merchant. Apparently no outstanding achievement resulted from this marriage. The same is true of Maria's marriage to Richard T. Allison, who was a purser in the navy and later won distinction as a major in the Confederate Army. Ellen Mary, who was an invalid practically all of her life, remained single and lived with her father.

In 1855, Ellen and Maria accompanied their father to Washington. Evidently, the residence Taney had to accept was not the best. One of his admirers was quite indignant to think that a member of the government would have to live in such quarters. He found Taney living "with his family over a candy shop on Pennsylvania Avenue, between Fourth and Fifth streets. Taney's office was partitioned off by a calico curtain from another apartment in which the family cooking was done. 'Of course there was an impressiveness and an air of refinement which emanated from the dignity of his person and which no mean surroundings could overcome, and there was also the stamp of superiority given by the law books which filled the pine-wood shelves.'¹⁷ Taney was never considered a wealthy man after he left his father's home. The expense of rearing a large family and the many illnesses

¹⁶Walsh, 219

¹⁷Swisher, 471-472.

of the members, when only the finest physician was called in to attend the patients, was a constant drain on the family budget. Then, also, if ample generosity be considered a fault, Taney was guilty of this imperfection for "he gave freely, cheerfully, with an open hand and willing heart, out of his limited means. If he had at any time been rich, I am inclined to think, from observation and knowledge, that the blended charities of himself and his estimable wife would have left him, as he died possessed of no fortune - leaving a mere competency and nothing more for his family."¹⁸

Furthermore, any intrusion into the privacy of their family life, greatly disturbed Taney. This point is emphasized in the married life of his daughter, Sophia. She married Colonel Francis Taylor, who won distinction in the Mexican War, but who turned out to be a rather unscrupulous individual as revealed by his plan to do away with his wife and son. He made known his desire, in the form of letters to both Sophia and her father. Taney became almost speechless when he was urged by Taylor to consent to the plan. Swisher states Taney's opinion of his son-in-law as follows: "It would be the coolest piece of impudence you ever saw", he sputtered, "if the man had any sense . But he has no moral sense. No sense of propriety. No sense of honor - and not as much sensibility as belongs to the higher grades of the mere animal creation. Poor Sophia. How I grieve for her. An evil past our curepast hope, when the man is a hypocrite in religion."¹⁹ As a result

¹⁸"A salary of five thousand dollars was by no means sufficient to support in aristocratic fashion a wife and six grown daughters. Yet it remained at this level until 1855, when it was increased only to sixty-five hundred dollars." Ibid., 454.

¹⁹Ibid.,

Sophia and her young son made their home with Taney. She kept herself in seclusion. Taney had the added financial burden of Sophia and her young child. However, late in life, she was the only daughter who was converted to Catholicism. Sophia, together with Ellen, Maria, Anne, and Elizabeth remained close to Taney throughout his long life.

All through his life Taney was handicapped by poor health, but it never hindered his quick and alert mind. His illness, on various occasions, demanded his absence from court and social functions.²⁰ Therefore, he became exceedingly dependent upon his wife and daughters who helped him regain his strength. Besides they made his home life one of contentment. "His home as a place of refuge from his legal and political battles had been described in these words:

'But this was Taney's home, where peaceful rest
From toil, and turmoil of the State was found.
These walls gave sanctuary to his heart,
With all his loved ones closely gathered round.'²¹

It is unquestionable that the "devotion and solicitude" of Mrs. Taney and the daughters enabled Taney, in spite of his physical weakness, to live beyond the age of eighty-seven.

²⁰On May 15, 1855 Taney was unable to accept the invitation sent to him by, The Catholic Institute of Baltimore.

"Gentlemen:- Accept my sincere thanks for your kind invitation to be the guest of the members of the Catholic Institute on their excursion of St. Mary's City to celebrate the landing of the Pilgrims. My age and my infirm health put it out of my power to avail myself of the invitation with which you have honored me. I truly respect it, for under a more favorable condition of health and strength, it would have given me real pleasure to accompany the members of the Catholic Institute to a spot, and to celebrate an event, in which I have ever felt the deepest interest.

In the spring of 1864 Taney became feeble and remained in bed most of the time. He survived the summer, due perhaps, to the excellent care he received from his daughters. However, in the autumn, the chronic intestinal disease which had been an annoyance, to Taney for several years, now became very prominent. All three of his physicians gave up hope for the aged Chief Justice.

Although Taney had not known the verdict of the doctors, he knew that the end was close. "'My dear child,' he said gently to Anne, his eldest daughter, on the morning of October 12,²² 'My race is run. I have no desire to stay longer in this painful world, but for my poor children.' He asked to receive the last rights of his church, and calmly gave directions for the preparations that were needed. In the afternoon came again the violent pains from which he had suffered for many days. That evening in the words of Mrs. Campbell - 'I think it was about ten o'clock when being helped from one side to the other to relieve his pain, he suddenly raised his head, all traces of suffering gone, his eyes bright and clear,' said 'Lord Jesus receive my spirit,' and never spoke again. He lived for more than an hour afterward with the same sweet peaceful face and though we stood

With great respect, I am gentlemen,

Your obedient servant

R. B. Taney.

Chandler, Joseph R., "The Fourth Celebration of the Landing of the Pilgrims", May 15, 1855, 18.

²¹Delaplaine, Edward S., "The Home of Taney", An address given at the forty-first annual meeting of the Maryland State Bar Association, Atlantic City, New Jersey, July 4, 1936.

²²Taney died in full possession of his intellectual faculties, and to the last retained the keenest interest in public affairs. "At the advanced

around his bed we did not know he was gone until we saw the doctor closing his bright unlifted eyes."²³ His last verbal movements were expressions to God.

Upon receiving word of Taney's death Judge McCunn said, "Since the establishment of this Republic, no greater loss had befallen the country, than the death of Chief Justice Taney. He has not only been a very useful member of the Judiciary, occupying for many years the highest position in this or any other lands; and it was with feelings of the deepest regret that I learned this morning, of his death. I had hoped that the Almighty would have spared him until peace was restored to our distracted country. An Allwise Providence has willed it otherwise, and I most sadly concur in ordering this resolution of adjournment on the minutes of the Court."²⁴

Taney's wish was fulfilled in that he was buried by the side of his mother in the Jesuit Novitiate, Frederick, Maryland. "He is said to have remarked that buried there he would surely have the prayers of some of the young men who were entering upon their lives as Jesuits, making the sacrifice of everything for the sake of their intentions to do all for the glory of God. He could not think of any place where his body might rest more peacefully than beside that of his mother and amid the friends with whom he

age of eighty-seven years, he could state the most complicated case with ever important detail of name and date with extraordinary clearness and skill. His recollections of principles of law and of the decisions of the Court was as ready as his memory of facts." Taney, Edward S., "Roger B. Taney", The Green Bag, Vol VII, Aug., 1895, 364.

²³Swisher, 571.

²⁴"The Death of Chief Justice Taney", New York Evening Express, Thursday, October 13, 1864.

had so closely associated in life."²⁵ Another reason why Taney chose the secluded spot in Frederick for his burial was to avoid having a tomb erected. Consequently, the two bodies remained in that spot until the cemetery was abandoned by the Jesuits. Then the bodies were removed to a larger Catholic Cemetery where they were again placed side by side.

In the summer of 1870, Judge Richard H. Marshall, of Frederick City, and General H. Coale, of Liberty, both distinguished members of the Frederick bar, were responsible for having a marble slab erected over the grave of Taney. The Italian marble slab bore the following inscription:

I.H.S.

Roger Brooke Taney

Fifth Chief Justice of the United States of America, born in Calvert County, Maryland, March 17, 1777, died in the city of Washington, October 12th, 1864, aged 87 years, 6 months and 25 days. He was a profound and able lawyer, an upright and fearless Judge, a pious and exemplary Christian. At his own request he was buried in this secluded spot near the grave of his mother.

"May he rest in peace".²⁶

"In his professional life", says Scharf: Judge Taney was compelled to walk over the hottest plowshares that could be put beneath the feet of a public man by his countrymen, but he passed through the ordeal unscathed, though doubtless wounded to the quick. He was a man of iron will, determined purpose, undaunted courage, and of heroic type character, yet he

²⁵Walsh, 233-234.

²⁶Scharf, 398-399.

possessed the most delicate qualities of kindness and courtesy, as his private and public life bore witness, in his intercourse with all."²⁷

Roger Brooke Taney "was a great man and a great judge, a brave and true patriot who dared to do his duty as he saw it in the most trying and perilous period of his country's history."²⁸

Although Taney lived at a time, when both the Church and the country were in a state of turmoil, nevertheless, he remained faithful to his religion and loyal to his country. At various periods during his life, the conditions in the country seemed to be proceeding rather smoothly, but there was an apparent undercurrent of bigotry keeping pace with the times.

An attempt has been made to depict Taney's ancestral background, the religious, economic, and social conditions in existence up to and including the time of his birth. A description of Taney's religious, educational, social, and domestic activities have also been presented. He remained devoted and affectionate to his mother, wife, and family throughout his life. "The mother of the future Chief Justice", said Edwards, "was a pious woman, of excellent judgment, and great gentleness. Her influence upon the character of her son, appears to have been deep and lasting".²⁹ Even after her death, Taney frequently visited her grave and expressed a desire to be buried by the side of his mother, in the little Catholic Cemetery, in Frederick, Maryland.

²⁷Ibid., 398.

²⁸Christian, George L., "Roger Brooke Taney", The American Law Review, Vol. 46, Feb., 1912, 1.

From all indications his domestic life was ideal. Both he and his wife, Anne Phebe Key, made a pre-nuptial agreement, whereby, the children followed the religious faith of the parents of their own sex. The agreement remained unchanged throughout their lives. Taney's friendship for the Jesuits was not hindered by the agreement, for, they knew about it when they allowed him to practice his religious duties. Religious differences in the family did not cause bitter feelings among the members. The marriage was a happy one, "cemented", as it was, "by a genuine affection to the end of life, and it was embellished through more than forty years by a beautiful courtesy",³⁰ despite the fact that Taney was a devout Catholic and his wife a devout Protestant. He deserves a considerable amount of credit for his religious devotion all during his life. It would have been much easier for him to obtain his high position as Chief Justice of the United States and to avoid the insults heaped upon him by bigoted critics by merely denouncing his Faith, but he refused. Throughout his public life, "he made a profession of his Christian belief, and, with the usual constancy of his nature, he died in the faith of his ancestors, in the communion of the Roman Catholic Church."³¹

²⁹Edwards, Issac, "Chief Justice Taney -- A Sketch and a Criticism", Transactions of the Albany Institute, Vol., VIII, 1876, 20.

³⁰Ibid., 23.

³¹Tyler, 505.

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Paul Kiniery, Ph.D.

October 6, 1941

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